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In the Supreme Court of the United States

OCTOBER TERM, 1982

JUBA C. BELL,

Plaintiff-Respondent

V.

STATE FARM MUTUAL AUTOMOBILE INSURANCE, A/K/A STATE FARM FIRE AND CASUALTY COMPANY

Defendant-Petitioner

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

Did the District Court err in holding inapplicable, with regard to an accident occurring in the State of Louisiana, the policy provisions of uninsured motorist insurance issued and delivered in the State of Florida to a Florida resident, restricting the underinsured motorist coverage thereunder to those instances where the liability insurance limits carried by the tort-feasor are less than the uninsured motorist coverage available to the injured party?

Did the District Court err in holding the choice-of-law rules of Louisiana require the substantive law of Louisiana be applied to the contract of insurance involved herein?

PARTIES TO THE PROCEEDING BELOW

The parties to the proceeding in the United States District Court were:

Juba C. Bell,

Plaintiff

State Farm Mutual Automobile Insurance Company A/K/A State Farm Fire and Casualty Company,

Defendant

Lizene Byoune, Jr.,

Defendant

Nita Bell,

Defendant in Cross-Claim

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OPINIONS BELOW

The opinion of the United States District Court for the Western District of Louisiana, Alexandria Division, entered on December 8, 1981, is recorded as *Juba C. Bell v. State Farm Fire and Casualty Company*, 527 F. Supp. 300 (USDC, WDLA, 1981).

The opinion of the United States Court of Appeals, Fifth Circuit entered July 16, 1982 is set out in the Appendix hereto.

STATEMENT OF JURISDICTIONAL GROUNDS

Suit was filed in the Ninth Judicial District Court for the Parish of Rapides, State of Louisiana and removed to the United States District Court for the Western District of Louisiana pursuant to the provisions of 28 U.S.C. § 1332 (a) (1) (1976) and 28 U.S.C. § 1441 (a) (1948). Judgment was rendered by that Court on December 8, 1981. Defendant timely filed its Notice of Appeal to the Fifth Circuit Court of Appeals pursuant to the provisions of FRAP Rule 4. The opinion of the Court of Appeals affirming the judgment of the District Court was entered on July 16, 1982. Defendants petition for rehearing was denied on September 7, 1982. A stay order was granted by the Court of Appeals on September 21, 1982, granting a stay of mandate until October 21, 1982. The jurisdiction of the Supreme Court is envoked pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

Florida Statute (1975) Section 627.727 (1) and (2)

627.727 Automobile liability insurance; uninsured vehicle coverage; insolvent insurer protection.

(1) No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto in not less than the limits of the liability insurance purchased by the named insured for bodily injury, *(or such lower limits complying with the company's rating plan as may be selected by the named insured,) under provisions filed with and approved by the department, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom; provided, however, that the coverage required under this section shall not be applicable when, or to the extent that, any insured named in the policy shall reject the coverage; and provided further, that when a vehicle is leased for a period of 1 year or longer and the lessor of such vehicle by the terms of the lease contract provides liability coverage on the leased vehicle in a policy wherein the lessee is a named insured or on a certificate of a master policy issued to the lessor, the lessee of such vehicle shall have the sole privilege to reject uninsured motorist's coverage. Unless the named insured, or lessee having the privilege of rejecting uninsured motorist's cover-

age, requests such coverage in writing, the coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer. The coverage provided under this section shall be excess over but shall not duplicate the benefits available to an insured under any workmen's compensation law, disability benefits law, or any similar law; under any automobile liability or automobile medical expense coverages; or from the owner or operator of the uninsured motor vehicle or any other person or organization jointly or severally liable together with such owner or operator for the accident. Such coverage shall not inure directly or indirectly to the benefit of any workmen's compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any workmen's compensation or disability benefits law or any similar law.

(2) For the purpose of this coverage, the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle when the liability insurer thereof:

(a) Is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency; or

(b) Has provided limits of bodily injury liability for its insured which are less than the limits applicable to the injured person provided under his uninsured motorist's coverage.

D. The following provisions shall govern the issuance of uninsured motorist coverage in this state.

(1)(a) No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in not less than the limits of bodily injury provided by the policy, under provisions filed with and approved by the commissioner of insurance, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness, or disease, including death resulting therefrom; provided, however, that the coverage required under this Subsection shall not be applicable where any insured named in the policy shall reject in writing the coverage or selects lower limits. Such coverage need not be provided in or supplemental to a renewal or substitute policy where the named insured has rejected the coverage or selected lower limits in connection with a policy previously issued to him by the same insurer. Any document signed by the named insured or his legal representative which initially rejects such coverage or selects lower limits shall be conclusively presumed to become a part of the policy or contract when issued and delivered, irrespective of whether physically attached thereto.

* * * * * * *

(2)(b) For the purposes of this coverage the term uninsured motor vehicle shall, subject to the terms and conditions of such coverage, also be deemed to include an insured motor vehicle when the automobile liability insurance coverage on such vehicle is less than the amount of damages suffered by an insured and/or the passengers in the insured's vehicle at the time of an accident, as agreed to by the parties and their insurers or as determined by final abjudication.

* * * * * * * *

Louisiana Civil Code

Article 10

The form and effect of public and private written instruments are governed by the laws and usages of the places where they are passed or executed.

But the effect of acts passed in one country to have effect in another country, is regulated by the laws of the country where such acts are to have effect.

The exception made in the second paragraph of this article does not hold, when a citizen of another State of the Union, or a citizen or subject of a foreign State or country, disposes by will or testament, or by any other act causa mortis made out of this State, of his movable property situated in this State, if at the time of making said will or testament, or any other act causa mortis, and at the time of his death, he resides and is domiciliated out of this State.

Restatement Second, Conflict of Laws,
Copyright by the American Law Institute (1971)

I. *The General Principle.*

§ 6. Choice-of-Law Principles

(1) A court, subject to constitutional restrictions, will follow a statutory directive of its own state on choice of law.

(2) When there is no such directive, the factors relevant to the choice of the applicable rule of law include

(a) the needs of the interstate and international systems,

(b) the relevant policies of the forum,

(c) the relevant policies of other interested states and the relative interests of those states in the determination of the particular issue,

(d) the protection of justified expectations.

STATEMENT OF THE CASE

Jurisdiction of the District Court was sought pursuant to the provisions of 28 U.S.C. § 1332 (a)(1) (1976) and 28 U.S.C. § 1441 (a) (1948).

Plaintiff's 22 year old son, Robin Bell, was killed as a result of an automobile accident which occurred in Rapides Parish, Louisiana on February 8, 1980, when the vehicle in which he was riding as a guest passenger, owned and driven by Raymond Giroux, was struck in the rear by an automobile owned and operated by Lizene Byoune, Jr. At the time of the accident, both Robin Bell and Raymond Giroux were serving in the United States Air Force, stationed at England Air Force Base near Alexandria.

Plaintiff, Juba C. Bell, and his former wife, Nita Bell, the mother of the decedent, were divorced prior to the accident. Nita Bell is a citizen and resident of the State of California. Robin Bell, prior to his entry into the service, resided with his mother at the domicile in San Bernadino County, California.

Plaintiff, a citizen and resident of the State of Florida residing at Pensacola, Florida, instituted this action to recover damages for the alleged wrongful death of his son, on January 21, 1981 in the Ninth Judicial District Court for the Parish of Rapides, State of Louisiana, against Lizene Byoune, Jr. and State Farm Mutual Automobile Insurance Company, as the liability insurer of the alleged

tort-feasor, Lizene Byoune, Jr., and also as the uninsured motorist insurer of Raymond E. Giroux, in whose automobile plaintiff's son was riding at the time of the accident. When the certified copy of the policy of insurance issued to Raymond Giroux was received to be filed in evidence pursuant to stipulation, it was discovered that State Farm Fire and Casualty Company, instead of State Farm Mutual Automobile Insurance Company, had written the policy. On August 26, 1981 a stipulation was entered into by the parties substituting State Farm Fire and Casualty Company for State Farm Mutual Automobile Insurance Company in the litigation. (TR. p. 75)

Lizene Byoune, Jr. is a citizen and resident of the State of Texas, and at the time of the accident, the 1978 Cadillac automobile which he was driving bore Texas License Number REV 370 and his drivers license was issued by the State of Texas and bore Number 8785880.

Raymond E. Giroux is a citizen and resident of the State of Florida. At the time of the accident the 1979 Chevrolet owned and operated by him was licensed for operation in the State of Florida and bore Florida License Plate Number HSW 849. Raymond Giroux was licensed to drive by the State of Florida, and his drivers license bore Florida Number G620-725-57-421.

State Farm Mutual Automobile Insurance Company is an insurance corporation domiciled in the State of Illinois and is authorized to do and doing business in the

States of Illinois, California, Texas, Louisiana and Florida, as well as other states of the union. It issued a policy of automobile liability insurance to Lizene Byoune in the State of Texas, affording per person bodily injury liability coverage of $25,000.00, and that amount has been paid to the parents of Robin Bell in accordance with an agreement reached between the parents as to the amount each would receive.

State Farm Fire and Casualty Company is an insurance corporation domiciled in the State of Illinois and is authorized to do and doing business in the States of Illinois, California, Texas, Louisiana and Florida, as well as other states of the union; it issued its Policy Number S83-1692-59 to Raymond E. Giroux, 1448D Bogsford, Port Orange, Florida 32019, affording liability and uninsured motorist coverage on his 1979 Chevrolet automobile with per person uninsured motorist limits of $10,000.00.

The policy of insurance issued by State Farm Fire and Casualty Company to Raymond E. Giroux defines "Uninsured Motor Vehicle" in pertinent part as follows:

"*Uninsured Motor Vehicle* - Means:

* * * * *

2. A land motor vehicle insured or bonded for bodily injury liability at the time of the accident; but

* * * * *

b. The limits of liability are less than the limits of uninsured motor vehicle cover-

age that apply to the insured; or***"

(Exhibit 1, P. A-10.)

On February 19, 1981 removal of the State Court proceeding was had to the United States District Court for the Western District of Louisiana.

On March 23, 1981, State Farm Mutual Automobile Insurance Company filed its answer to the plaintiff's complaint and in its capacity as the liability insurer for Lizene Byoune, Jr. made a counter-claim and cross-claim for interpleader depositing its $25,000.00 policy limits on the Byoune vehicle into the registry of the Court. On March 31, 1981, answer was filed on behalf of Lizene Byoune, Jr.

Initially, the United States of America was made a defendant in the interpleader, but it was subsequently dismissed on its representation that it had been paid everything that was due to it arising out of the accident.

The mother of the decedent, Nita Bell, was likewise initially named as a defendant in the interpleader, and on June 23, 1981, in a joint pleading on behalf of plaintiff, Juba Bell and Nita Bell, the funds deposited in connection with the interpleader were withdrawn, with the mother receiving $15,213.70, or sixty percent of the proceeds, and plaintiff receiving $10,142.46, or forty percent of the proceeds, and reserved his rights to proceed against the uninsured motorist carrier on the Giroux vehicle.

By order dated June 23, 1981, the lower Court authorized the withdrawal by the defendants in interpleader in the stipulated amounts.

Subsequently, motions for summary judgment were submitted to the Court on written memoranda on behalf of both plaintiff and defendant in its capacity as the uninsured motorist carrier for Raymond Giroux. On December 8, 1981, the Honorable Edwin F. Hunter, Jr. entered judgment denying defendants' motion for summary judgment and granting plaintiff's motion for summary judgment.

On January 4, 1982, State Farm Fire and Casualty filed its notice of appeal.

On July 16, 1982, the Honorable Albert Tate, Jr. on behalf of the United States Court of Appeal for the Fifth Circuit affirmed the judgment of the District Court. Subsequently, defendant petitioned for a rehearing and on September 7, 1982 defendant's petition was denied.

ARGUMENT

The holding of the District Court affirmed by the Court of Appeals permits plaintiff to recover in this action. To reach this conclusion, the Court ignores the clear, unambiguous provisions of a contract of insurance issued and delivered in Florida to a Florida resident, the provisions of Louisiana's choice-of-law statute and the first principal of

the Restatement Second, Conflicts of Law.

The policy of insurance issued by defendant to Raymond Giroux afforded uninsured motorist limits of $10,000.00 each person and $20,000.00 each occurrence. The tort-feasor, Lizene Byoune, Jr., carried liability insurance limits in the amount of $25,000.00 each person and $50,000.00 each occurrence. The full $25,000.00 per person limit has been paid to the parents of Robin Bell. Florida law [Section 627.727(1) Florida Statute (1975)] as interpreted by the Supreme Court of Florida in *Dewberry v. Auto Owners Insurance Company*, 363 So.2d 1077 (Fla. 1978) provides that where the limits of liability insurance carried on the tort-feasor's vehicle are greater than the limits of the uninsured motorist's coverage, the tort-feasor's vehicle does not constitute an insured motor vehicle and no *under*insurance coverage is available. As was stated in the *Dewberry* case, supra, at page 1081:

> The statute was only intended to allow the insured the same recovery which would have been available to him had the tort-feasor been insured to the same extent as the insured himself.

The District Court correctly states that in diversity actions on insurance contracts such as the one herein involved, the Federal Courts must apply the choice-of-law rules of the forum. *Bluebird Body Company v. Ryder Truck Rental*, 583 F.2d 717 (USCA 5th 1978); *Lee v. Hunt*, 631 F.2d 1171 (USCA 5th 1980); *Klaxon Company v. Stentor Electric Manufacturing Company, Inc.*, 313 US 487, 61

S.Ct. 1020, 85 L.Ed. 1477 (1941). However, the Court incorrectly classifies the issue at bar as "tort litigation." It is not. It is a matter of interpretation of the terms of the contract. Louisiana's choice of law statute governs the situation. Louisiana Civil Code Article 10 as amended and reenacted by Act 71 of 1979, effective January 1, 1980, provides in pertinent part:

> Article 10. The form and effect of public and private written instruments are governed by the law and usages of the place where they are passed or executed. ***

The most recent decision of the Louisiana Supreme Court with reference to the law applicable to insurance contracts and particularly uninsured motorist coverages is found in the case of *Deane v. McGee*, 261 La. 684, 260 So.2d 668 (La. 1972) where the Court stated:

> The contention has been made on this review that the law of Louisiana and not that of Florida, should have been applied in this case. The contention is without merit. The Court of Appeal properly applied Florida law to the State Farm policy.

The *Deane* Court then went on to cite Article 10 of the Louisiana Civil Code and then stated:

> Generally, the nature, validity and interpretation of an insurance contract is governed by the law of the place where made unless the parties clearly appear to have some other place in view. ***

The Fifth Circuit previously held to the same effect in *Aetna Casualty and Surety Company v. Evers*, 590 F.2d 600 (USCA 5th 1979); *Sprow v. Hartford Insurance Company*, 594 F.2d 418 (USCA 5th 1979), and *Shockley v. Sallows*, 615 F.2d 233 (USCA 5th 1980).

It is true that in the Louisiana Appellate Court decision of *Sutton v. Langley*, 330 So.2d 321 (La. App. 2nd Cir. 1976) the Court totally disregarded the provisions of Louisiana Civil Code Article 10 and adopted, with reference to an insurance contract case, the "interest analysis" theory espoused in the tort case of *Jagers v. Royal Indemnity Company*, 276 So.2d 309 (La. 1973). It erred in doing so. The *Jagers* case stands for the proposition that in a tort case Louisiana has abandoned the lex loci delicti doctrine and espoused the interest analysis approach of the Restatement Second, Conflict of Laws. This is entirely appropriate with respect to tort litigation since Louisiana has no specific choice of law statute with respect to torts. However, it has no application where a choice-of-law statute exists. This is reinforced by the first principle of the Restatement Second, Conflict of Laws, which provides:

> § 6. Choice-of-Law Principles
>
> (1) A court, subject to constitutional restrictions, will follow a statutory directive of its own state on choice of law.

Had this principle been applied, the District Court would correctly have turned to Civil Code Article 10, and,

following its directive, applied Florida law. Instead, it cited and relied upon *Allstate Insurance Company v. Hague*, 449 US 302 66 L.Ed.2d 521, 101 S.Ct. 633 (1980) for the proposition that the application of the substantive law of the forum state to an insurance policy issued and delivered in a sister state is not violative of the due process or full faith and credit clauses of the United States Constitution. We do not interpret the cited case as so holding where the clear and unambiguous provisions of the policy do not afford such coverage. While the plurality opinion in that case does not clearly state what the policy provisions being interpreted were, it is noted from Justice Stevens' concurring opinion that the policy there involved neither allowed nor prohibited stacking. The concurring opinion states (449 US 324);

> The question on the merits is one of interpreting the meaning of an insurance contract. Neither the contract itself, nor anything else in the record, reflects any express understanding of the parties with respect to what law would be applied or with respect to whether the separate uninsured motorist coverage for each of the decedent's three cars could be "stacked". Since the policy provided coverage for accidents that might occur in other states, it was obvious to the parties at the time of contracting that it might give rise to the application of the law of states other than Wisconsin. Therefore, while Wisconsin may have an interest in ensuring that contracts formed in Wisconsin in reliance upon Wisconsin law are interpreted in accordance with that law, that interest is not implicated in this case.

In the instant case, it is clear from the policy provisions that the Florida definition of the term "Uninsured Motor Vehicle" was selected and incorporated into the policy rather than the Louisiana definition of the term "Uninsured Motor Vehicle" as set forth in LSA-R.S. 22:1406D(2)(b).

The facts presented in this case are not unlike the facts presented to the Louisiana Appellate Court in the case of *Powell v. Warner,* 398 So.2d 22 (La. App. 4th Cir. 1981). In that case, plaintiffs, citizens and residents of the State of Mississippi and insured for uninsured motorist coverage under policies of insurance issued and delivered in the State of Mississippi, were rear-ended in Metairie, Louisiana by Pamela Warner, who, one month prior to the accident, began living with her aunt in Metairie, and who, two weeks after the accident, returned to her home in Mississippi. The automobile she was driving was registered in Mississippi, and her insurance with Allstate was bought while she was living in Mississippi.

After suit was instituted but before trial, plaintiffs settled with Pamela Warner and Allstate Insurance Company, reserving their rights as against their own uninsured motorist carriers, Commercial Union Insurance Company and Mississippi Farm Bureau Insurance Company. Those two companies both filed motions for summary judgment on the grounds that under Mississippi law, no *under*insurance was afforded. In affirming the Trial Court's grant of summary judgment to both defendants, the Appellate

Court in pertinent part stated:

> Here plaintiffs had the protection afforded by Warner's Allstate policy, however nominal in amount. Warner's policy conformed with Mississippi law and exceeds the minimum Louisiana statutory requirements. Plaintiffs are not seeking uninsured motorist coverage, as in *Sutton* [*Sutton v. Langley*, 330 So.2d 321 (La. App. 2nd Cir. 1976)], but rather asks that underinsurance limits be created and judicially added to the policies which they purchased.
>
> Lex Loci Delicti no longer governs, and we find no basis to consider a "false conflict" as in *Jagers* [*Jagers v. Royal Indemnity Company*, 276 So.2d 309 (La. 1973)], supra, nor was the alleged tortfeasor uninsured as in *Sutton*, supra. Further, the "interest analysis" is not applicable since we are not confronted with a choice of law under Restatement Second, Conflict of Laws, Section 6.
>
> Louisiana has provided statutorily for resolution of appellant's position. LSA-CC Article 10 states:
>
> > "The form and effect of public and private written instruments are governed by laws and usages of the places where they are passed or executed."
>
> * * * * * *
>
> Plaintiffs cannot invoke the uninsured provisions of their policies to add to the underinsured provisions of Louisiana law. The pleadings and record present no question of material fact, and the motions for summary judgment by Commercial Union and Mississippi Farm were properly granted.

In the instant case, the District Court, classified the matter as a true conflict. It is in fact, a false one.

In *Highlands Insurance Company v. Employers Surplus Lines Insurance Company*, 497 Fed.Sup. 169 (USDC E.D. La., 1980) that Court stated:

> Interest analysis is a two-step process whereby the Court must first determine whether a true or false conflict exists. If a true conflict exists, the Court applies the significant contacts approach of the Restatement Second of Conflicts of Law to determine which of the competing State's interests is dominant and hence prevailing. See *Ardoyno*, supra (*Ardoyno v. Kyzar*, 426 Fed.Sup. 78 (E.D., La., 1976)) at 81. If the alleged conflict is a false one, however, there is no need for such analysis, the Law of a State having no interest in a given matter is of course not to be applied to that matter.

In the *Highlands* case, as in this one, by the time it came on for hearing, the only parties interested were nonresidents of the State of Louisiana, and all interests of residents of the State of Louisiana had been satisfied. The Court held there that there was a false conflict raised, and therefore the Law of Texas or Massachusetts was controlling in interpreting the provisions and effect of the insurance contracts. In doing so, the Court stated:

> While we agree with Highlands that Louisiana has an interest in seeing that expectations of its resident claimants and insureds are met within the limits of insurance policies, these interests are

> satisfied when Highlands (a) assumed the liability for Ward as tort-feasor, and (b) compensated Smith for his injuries. The Court recognizes that Louisiana's interest could predominate in cases in which the payment by the insurer to the Louisiana claimant or on behalf of the Louisiana insured would be affected by the enforcement of the reinsurance contract. In the present factual situation, however, Louisiana interests ceased upon the full payment of Ward's claim on the policy following Smith's accident.
>
> The conflict here, therefore, is a false one. The Law of Texas or Massachusetts must control.***

Having determined the matter to be a true conflict situation, the Court relied for a resolution on some of the principles of the Restatement Second, Conflict of Laws. Although this analysis should not have been required, properly considered, these principles also point to the application of Florida law.

In addressing the principle of "the needs of the interstate system" the District Court fails to recognize that this interest does not refer to interstate automobile traffic. It refers to a system of laws on various subjects and is concerned with the need of each state to consider and integrate its rights into a system that will make the choice-of-law field an orderly one. Disregard of this consideration ultimately produces interstate friction which may result in retaliation. Louisiana's conflict of laws statute is a clear attempt by this state to recognize this element.

Florida has the paramount interest in this matter, since the contract was entered into in that state between the Company and a resident of that state and was intended to cover an automobile registered in that state. Florida's Supreme Court has clearly stated its policy relevant to the uninsured motorist provisions of a policy of insurance in the *Dewberry* case, supra, at page 1081 where it stated:

> It (the statute) could not have been intended to place the insured who is injured by an uninsured motorist in a better position than one who is harmed by a motorist having the same insurance as the insured.

While Louisiana likewise has an interest in seeing that the terms of a contract are upheld, it has no interest in changing the terms of a contract confected in Florida and sued on by a Florida resident by application of its own statute governing uninsured motorist provisions of an insurance policy.

In considering the next principle of the Restatement Second, Conflicts of Law, "relevant policies of the forum," the District Court correctly points out that Louisiana has a significant interest in the safety and welfare of the motoring public on Louisiana highways. It also has a significant interest in providing a method of recovery for damages incurred by those who may be injured on the state's highways. However that is not the issue at bar. The issue is one concerning the interpretation of the uninsured motorist provisions of a contract and the determination to

be made is whether or not the plaintiff may recover on the basis of a contract of insurance which exists secondarily to liability insurance provided by the tort-feasor. The interests cited by the court of a possible need by injured persons to avail themselves of the services of Louisiana's doctors or hospitals are properly considered when the issue is a matter of tort. The interests to be considered relative to the present issue are entirely different. Clearly, Florida's interest in the contract of insurance at issue outweighs those of Louisiana. Louisiana has *no* interest in this insurance policy. It was not confected nor delivered in Louisiana, nor does it govern the interests of a Louisiana resident. Louisiana's Uninsured Motorist Statute (LSA-R.S. 22:1406D) is, by its provisions, applicable only to policies delivered or issued for delivery in Louisiana and with respect to motor vehicles registered or principally garaged in this State (LSA-R.S. 22:1406D(1)(a)) and with reference to underinsured motor vehicles is "***subject to the terms and conditions of such coverage***" (LSA-R.S. 22:1406D (2)(b)). Application of the forum state's uninsured motorist statute to this contract of insurance issued and delivered in Florida so as to void specific policy provisions, valid under Florida law, constitutes arbitrary action and is fundamentally unfair to the insurer. The effect of applying Louisiana's Uninsured Motorist Statute so as to negate clear, unambiguous, specific policy language is violative of the due process and full faith and credit clauses of the United States Constitution.

The Court then addresses the consideration of "the

protection of justified expectations." The law of the state chosen to be applied under this consideration must have a substantial connection with the relevant aspects of the insurance transaction. In the instant case Louisiana has none. While Louisiana had contact with the accident resulting in this litigation, in that the accident occurred on a Louisiana highway, and may have an interest in providing the litigant with a forum, and State Farm Fire and Casualty Company has reason to recognize that it may be sued in a state where it is doing business, the issue is not one of jurisdiction. Relevant to this principle are the various factors recognized by the District Court concerning the policy which make it clear that State Farm Fire and Casualty, as well as Raymond Giroux, have a justifiable expectation that, although sued in Louisiana, they can assume that Florida law will apply where, as the District Court stated:

> The policy was issued and delivered to a Florida citizen then residing in Florida. Florida has concern for the interest of the insured in the scope and nature of the obligations which bind as well as protect him. The premium payable by the insured under this policy vary directly with the losses paid by the insurer, and to that extent the insurer has a stake in the uninsured motorist clause of the policy.

CONCLUSION

The District Court has created underinsurance motorist coverage for plaintiff when none is provided in the

policy nor is any provided under the law of the State where the policy was issued and delivered. Although Louisiana has an interest in providing a forum for the litigants, the occupants of the Giroux vehicle were employees of the United States Air Force, and thus Louisiana did not have any work-related contact with the accident. The parties involved in the accident were all citizens of states other than Louisiana. Policies of insurance were all issued in states other than Louisiana, and the parties litigant are all nonresidents of the State of Louisiana. It is submitted that for the reasons hereinabove set forth there is insufficient contact with the State of Louisiana for the substantive law of Louisiana to be applied to the insurance policy herein involved. In view of the above and foregoing argument and authorities, it is respectfully submitted that the judgment of the District Court and the Court of Appeals should be reversed, the motion for summary judgment on behalf of the plaintiff denied, and the motion for summary judgment on behalf of the defendant granted.

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ATTORNEY FOR DEFENDANT-APPELLANT

PROOF OF SERVICE

I, DeWitt T. Methvin, Jr., Attorney for State Farm Mutual Automobile Insurance Company, A/K/A State Farm Fire and Casualty Company, Defendant-Petitioner herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that I served copies of the foregoing Petition for Certiorari on Juba C. Bell by mailing three copies thereof, duly addressed and postage prepaid to his attorney of record, Robert B. Neblett, Post Office Box 1190, Alexandria, Louisiana, 71301, this _____ day of October, 1982.

_____

DeWitt T. Methvin, Jr.

Appendix "A"

Juba C. BELL, Plaintiff-Appellee,

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, a/k/a State Farm Fire and Casualty Company, Defendant-Appellant.

No. 82-3019
Summary Calendar.

United States Court of Appeals,
Fifth Circuit.

July 16, 1982.

Parents of automobile passenger killed in accident sought to recover, under uninsured motorist provisions of liability policy issued to owner of automobile in which passenger was occupant, amounts in excess of insurance coverage available under tort-feasor's policy. The United States District Court for the Western District of Louisiana, at Alexandria, Edwin F. Hunter, Jr., Senior District Judge, held that Louisiana law governed and parents could recover, 527 F.Supp. 300. On appeal by the insurer, the Court of Appeals, Tate, Circuit Judge, held that: (1) as between interests of Louisiana and those of Florida, Louisiana's interest dominated, and (2) where insurance policy is issued in one state on automobile that within reasonable

intention will be operated in interstate travel, law of forum state in which accident occurs may be deemed to be state in which policy was intended to have effect and to have most significant relationship in determining application of standard automobile liability policy, particularly where vehicle is principally located in such other state.

Affirmed.

1. Insurance 147(1)

As between interests of Louisiana and those of Florida, Louisiana's interest dominated, in regard to uninsured motorist coverage, in suit by parents of deceased passenger, resident of Louisiana, killed in accident in Louisiana, while passenger in automobile owned by Florida citizen then residing in Louisiana whose insurance policy was written and delivered to him in Florida. LSA—C.C. art. 10.

2. Insurance 147(1)

Where insurance policy is issued in one state on automobile that within reasonable intention will be operated in interstate travel, law of forum state in which accident occurs may be deemed to be state in which policy was intended to have effect and to have most significant relationship in determining application of standard automobile liability policy, particularly where vehicle is principally located in such other state.

Appeal from the United States District Court for the Western District of Louisiana.

Before GEE, GARZA and TATE, Circuit Judges.

TATE, Circuit Judge.

The plaintiff's decedent son, a resident of Louisiana at the time, was killed in an automobile accident in Louisiana. The plaintiff mother sues the insurer of the driver of the automobile, stationed with the deceased son at a military base in Louisiana, although a resident of Florida. The automobile was licensed in Florida but garaged in Louisiana, and the standard automobile liability insurance policy covering its operation was issued in Florida. The issue is whether the interpretation of the uninsured motorist coverage is to be governed by Florida law, the place of issuance of the policy, or by the law of Louisiana, where the accident occurred, where both decedent and insured were residents at the time of the accident, and where the automobile was garaged at the time of the accident.

[1] In its able opinion, the district court analyzed the jurisprudence interpreting the Louisiana conflicts rule, applicable in this diversity action filed in Louisiana, and held that in this true conflict of Florida and Louisiana law, the interests of Louisiana were sufficient to warrant the application of Louisiana law. We affirm the judgment holding coverage on the basis of the district court opinion.

527 F.Supp. 300 (W.D.La.1981).

As the district court noted, in applying the Louisiana conflicts rule to this diversity case, the *lex loci contractus* interpretation of Louisiana Civil Code Article 10 enunciated by the plurality opinion in *Deane v. McGee*, 261 La. 686, 260 So.2d 669 (1972), and followed in *Sprow v. Hartford Insurance Co.*, 594 F.2d 418 (5th Cir. 1979), is not in accord with the later Louisiana jurisprudential interpretations that the application of insurance policies in Louisiana tort cases is governed by the interest analysis of *Jagers v. Royal Indemnity Company*, 276 So.2d 309 (La.1973), and its progeny, *see*, Couch, Louisiana Adopts Interest Analysis: Applause and Some Observations, 49 Tul.L.Rev. 1 (1974), and followed by subsequent decisions of this circuit, *e.g.*, *Lee v. Hunt*, 631 F.2d 1171 (5th Cir. 1980); *Cooper v. American Express*, 593 F.2d 612 (5th Cir. 1979); *Brinkley & West, Inc. v. Foremost Insurance Company*, 499 F.2d 928 (5th Cir. 1974).

[2] Louisiana Civil Code Article 10 provides that "[t]he form and effect of public and private written instruments are governed by the laws and usages of the places where they are passed or executed," but it also provides that "the effect of acts passed in one country to have the effect in another country, is regulated by the laws of the country were such acts are to have effect." In the case of an insurance policy issued in one state on an automobile that within reasonable intention will be operated in interstate travel, the law of the forum state in

which an accident occurs may be deemed to be the state in which the policy was intended to have effect and to have the most significant relationship in determining the application of a standard automobile liability policy, *Deane v. McGee, supra*, 260 So.2d at 674 (concurring opinion), particularly where the vehicle is principally located in such other state. Restatement of Conflict of Laws 2d, Sections 6, 193 (1971).

Accordingly, we AFFIRM the judgment of the district court.

AFFIRMED.

APPENDIX "B"

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 82-3019
Summary Calendar

D. C. Docket No. CA 81 0302

JUBA C. BELL,

Plaintiff-Appellee,

versus

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, a/k/a State Farm Fire and Casualty Company,

Defendant-Appellant.

Appeal from the United States District Court for the Western District of Louisiana

Before GEE, GARZA and TATE, Circuit Judges.

JUDGMENT

This cause came on to be heard on the record on appeal and was taken under submission by the Court upon the record and briefs on file pursuant to Rule 18;

ON CONSIDERATION WHEREOF, It is now here

ordered and adjudged by this Court that the judgment of the said District Court in this cause be, and the same is hereby, affirmed;

IT IS FURTHER ORDERED that defendant-appellant pay to plaintiff-appellee, the costs on appeal to be taxed by the Clerk of this Court.

JULY 16, 1982

ISSUED AS MANDATE: REVISED 6/4/82

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 82-3019

JUBA C. BELL,
Plaintiff-Appellee,

versus

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, a/k/a State Farm Fire and Casualty Company,
Defendant-Appellant.

Appeal from the United States District Court for the Western District of Louisiana

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ON PETITION FOR REHEARING
(September 7, 1982)

Before GEE, GARZA and TATE, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby DENIED.

ENTERED FOR THE COURT:

FILED: SEP 7, 1982

United States Circuit Judge

A-9

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

September 21, 1982

Mr. DeWitt T. Mathvin, Jr.
Attorney at Law
P. O. Box 1871
Alexandria, LA 71301

No. 82-3019 - Juba C. Bell -vs- State Farm Mutual Automobile Ins. Co., etc.

MANDATE STAYED TO AND INCLUDING October 21, 1982 .

This Court has this day granted a stay of the issuance of the mandate to the date as shown above. If during the period of the stay there is filed with this office a notice from the Clerk of the Supreme Court that the party who has obtained the stay has filed a petition for the writ in that Court, the stay shall continue until final disposition by the Supreme Court. Upon the filing of a copy of an order of the Supreme Court denying the petition for writ of certiorari, the mandate shall issue immediately under Rule 41, FRAP.

Under revised Rule 19.1 of the Supreme Court, effective June 30, 1980, a request to certify the record prior to action by the Supreme Court on the petition for certiorari should not be made as a matter of course but only when the record is deemed essential to a proper understanding of the case by that Court.

A copy of the opinion, judgment, or Rule 21 Decision, and denial of rehearing are still required by the Supreme Court to be incorporated as an appendix to your petition. Enclosed are copies of the said documents which have been entered in this cause.

Very truly yours,

GILBERT F. GANUCHEAU, Clerk

cc: Mr. Robert B. Noblett, Jr.

By: R. Adeline Barnes
Deputy Clerk

Encls.

MDT-3

State Farm Fire and Casualty Company

[illegible] Claims Office
3425 Lake Alfred Road
Winter Haven, Florida 33969

CERTIFICATE

I, the undersigned, do hereby certify that I am custodian of the records pertaining to the issuance of policies issued by the East Florida Division of the State Farm Fire and Casualty Company of Bloomington, Illinois.

I further certify that the attached policy number 583 1692 59 is a true and correct copy of the policy issued to Raymond E. Giroux of Ft. Orange, Florida together with all endorsements thereon. This is the policy which was in force for the date of loss, February 8, 1980.

John Donahue
Service Supervisor

State of Florida

County of Polk

Subscribed and sworn to before me this 10th day of August, 1981.

NOTARY PUBLIC

My Commission Expires:
NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES JAN. 24 1983
BONDED THRU GENERAL INS. UNDERWRITERS

NAMED INSURED
GIROUX, RAYMOND E
1448 D BOGGS FORD
PT ORANGE FL 32019

STATE FARM FIRE AND CASUALTY COMPANY

Car Policy

State Farm Fire and Casualty Company, Home Office, Bloomington, Illinois

THE ADDRESS OF THE REGIONAL OFFICE ISSUING THIS POLICY IS SHOWN AT THE TOP OF THE DECLARATIONS PAGE.

THIS POLICY IS YOUR CAR INSURANCE CONTRACT. PLEASE READ IT. IT IS WRITTEN IN EASY TO READ AND UNDERSTAND LANGUAGE.

IF YOU HAVE AN ACCIDENT, CALL OR SEE YOUR STATE FARM AGENT OR ONE OF OUR CLAIM OFFICES AT ONCE. FOR DETAILS OF WHAT TO DO, SEE "REPORTING A CLAIM-INSURED'S DUTIES" IN THIS POLICY

Authorized Representative

CF 9918.3

STATE FARM FIRE AND CASUALTY COMPANY
BLOOMINGTON, ILLINOIS
A STOCK COMPANY
DEFINED WORDS
WHICH ARE USED IN SEVERAL PARTS OF THE POLICY

We define some words to shorten the policy. This makes it easier to read and understand. Defined words are printed in bold face italics. You can pick them out easily.

Bodily Injury—means bodily injury to a person and sickness, disease or death which results from it.

Car—means a four wheel land motor vehicle designed for use mainly on public roads. It does not include any vehicle while located for use as a dwelling or other premises.

Car Business—means a business or job where the property is sold, leased, repaired, serviced, transported, stored or park land motor vehicles or trailers.

Insured—means the persons, persons or organizations defined as insureds in the specific coverage.

Loss—defined in sections IV and V.

Newly Acquired Car—means a car newly owned by you or your spouse if it:

1. replaces your car; or
2. is in addition car and we insure all other cars owned by you and your spouse on the date of its delivery to you or your spouse;

but only if you or your spouse:

1. ask us about it within 30 days after its delivery to you or your spouse; and
2. if you or your spouse has more than one of our policies, tell us which one is to apply; and
3. pay us any added premium due.

Non-Owned Car—as used in sections I and II means a car, including a car owned jointly that has one set of dual wheels that:

1. owned by;
2. registered in the name of; or
3. furnished or available for the regular or frequent use of;

you, your spouse, or any relative.

The car has to be within the scope of consent of the owner or person in lawful possession of it.

See Section IV for definitions used there.

Occupying—means in, on, entering or alighting from.

Person—means a human being.

Private Passenger Car—means a car of the private passenger or station wagon type designed solely to carry persons or their luggage.

Relative—means a person related to you or your spouse by blood, marriage or adoption (including a ward or foster child) who lives with you. It includes your unmarried and unemployed child away at school.

Spouse—means your husband or wife while living with you.

Temporary Substitute Car—means a car not owned by you or your spouse, if it replaces your car for a short time. The car has to be with the consent of the owner. Your car has to be out of use due to its breakdown, repair, servicing, damage or theft. A temporary substitute car is not considered a non-owned car.

You or your—means the named insured or named insureds shown on the declarations page.

Your car—means the car or the vehicle described on the declarations page.

25160
Declarations Page
STATE FARM FIRE AND CASUALTY COMPANY
HOME OFFICE: BLOOMINGTON, ILLINOIS
FLORIDA OFFICE: WINTER PARK, FLORIDA 32789

STATE FARM INSURANCE

Declarations Page

25160

STATE FARM FIRE AND CASUALTY COMPANY
REGIONAL OFFICE
FLORIDA OFFICE WINTER HAVEN, FLORIDA 33884

THE POLICY IDENTIFIED BY THIS POLICY NUMBER CONSISTS OF THIS PAGE, ANY ENDORSEMENTS, AND FORM 9910.2

NAMED INSURED
GIROUX, RAYMOND E
1448 D BOGGS FORD
FT ORANGE FL 32019

POLICY NUMBER
SBJ 1692-B50-59

POLICY PERIOD (MONTH-DAY-YEAR)
08-30-79 TO 02-29-80

PREMIUM FOR THIS POLICY PERIOD
$366.70

DESCRIBED VEHICLE
Yr. Make, Year, Body Type, Vehicle Identification Number
1 CHEVETTE 79 HATCHBAC 1B08P9A141232

COVERAGES (AS DEFINED IN POLICY)
1 A $145.00, PIO $51.62, C $5.90, D $38.28, G50 $118.90, H $1.50, U $3.70, S $1.80

LIMITS OF LIABILITY

A—LIABILITY Bodily Injury Each Person	A—LIABILITY Bodily Injury Each Accident	A—LIABILITY Property Damage Each Accident	C—MEDICAL PAYMENTS Each Person	D—UNINSURED MOTOR VEH. Bodily Injury Each Person	D—UNINSURED MOTOR VEH. Bodily Injury Each Accident	CLASS	CURRENT PREMIUM
1 10000	20000	25000	20000	10000	20000	9A001	

EXCEPTIONS AND ENDORSEMENTS
6450D.1, 6260K, 6851, FINANCED-FLA NE & TR, 130 N RIDGEWOOD AVE, DAYTONA BCH FL 32014

PERSONS INSURED FOR COVERAGE S AND AMOUNT
GIROUX, R E $5000

Countersigned _____, 19____
By _____ AGENT 1576

REPLACED POLICY

G 4178L1

DECLARATIONS CONTINUED

We, the State Farm Fire and Casualty Company, agree to insure you according to the terms of this policy based:

1. on your payment of premium for the coverages you chose; and
2. in reliance on your statements in these declarations.

You agree, by acceptance of this policy that:

1. the statements in these declarations are your statements and are true; and
2. we insure you on the basis your statements are true; and
3. this policy contains all of the agreements between you and us or any of our agents.

Unless otherwise stated in the exceptions space on the declarations page, your statements are:

1. Ownership. You are the sole owner of your car.
2. Insurance and License History. Neither you nor any member of your household within the past 3 years has had:
   a. vehicle insurance canceled by an insurer; or
   b. a license to drive or vehicle registration suspended, revoked or refused.
3. Use. Your car is used for pleasure and business.

WHEN AND WHERE COVERAGE APPLIES

When Coverage Applies

The coverages you chose apply to accidents and losses that take place during the policy period.

The policy period is shown under "Policy Period" on the declarations page and is for successive periods of six months each for which you pay the renewal premium. Payments must be made on or before the end of the renewal policy period. The policy period begins and ends at 12:01 A.M. Standard Time at the address shown on the declarations page.

Where Coverage Applies

1. The liability, medical payments, uninsured motor vehicle and physical damage coverages you chose apply:
   a. in the United States of America, its territories and possessions or Canada; or
   b. while the insured vehicle is being shipped between their ports.

   The liability, medical payments and physical damage coverages also apply in Mexico within 50 miles of the United States border. A physical damage coverage loss in Mexico is determined on the basis of cost at the nearest United States point.
2. The no-fault coverage you chose applies:
   a. in Florida; and
   b. outside Florida, but:
      (1) within the United States of America, its territories or possessions or Canada, or
      (2) in Mexico within 50 miles of the United States border
   to you or a relative, while occupying a motor vehicle insured for liability and no-fault coverages under this policy.
3. The death, dismemberment and loss of sight coverage you chose applies anywhere in the world.

FINANCED VEHICLES

If a creditor is shown in the declarations, we may pay any comprehensive or collision loss to:

1. you and, if unpaid, the repairer; or
2. you and such creditor, as its interest may appear, when we find it is not practical to repair your car; or
3. the creditor, as to its interest, if your car has been repossessed.

When we pay the creditor for loss for which you are not covered, we are entitled to the creditor's right of recovery against you to the extent of our payment. Our right of recovery shall not impair the creditor's right to recover the full amount of its claim.

The coverage for the creditor's interest only is valid until we terminate it. We will not terminate such coverage because of:

1. any act or negligence of the owner or borrower; or
2. a change in the ownership or interest unknown to us, unless the creditor knew of it and failed to tell us within 10 days; or
3. an error in the description of the vehicle.

The date of termination of the creditor's interest will be at least 10 days after the date we mail the termination notice.

REPORTING A CLAIM – INSURED'S DUTIES

1. Notice to Us of an Accident or Loss.
The *insured* must give us or one of our agents written notice of the accident or *loss* as soon as reasonably possible. The notice must give us:

a. *your* name; *and*
b. the names and addresses of all *persons* involved; and
c. the hour, date, place and facts of the accident or *loss*; and
d. the names and addresses of witnesses.

2. Notice to Us of Claim or Suit.
If a claim or suit is made against an *insured*, that *insured* must at once send us every demand, notice or claim made and every summons or legal process received.

3. Other Duties Under the Physical Damage Coverages.
When there is a *loss*, *you* or the owner of the property also shall:

a. make a prompt report to the police when the *loss* is the result of theft or larceny.
b. protect the damaged vehicle. We will pay any reasonable expense incurred to do it.
c. show us the damage, when we ask.
d. provide all records, receipts and invoices, or certified copies of them. We may make copies.

4. Other Duties Under No-Fault, Medical Payments, Uninsured Motor Vehicle and Death, Dismemberment and Loss of Sight Coverages.
The *person* making claim also shall:

a. give us all the details about the death, injury, treatment and other information we need to determine the amount payable.
b. be examined by physicians chosen and paid by us as often as we reasonably may require. A copy will be sent to the *person* upon written request. If the *person* is dead or unable to act, his or her legal representative shall authorize us to obtain all medical reports and records.
c. under the uninsured motor vehicle coverage:
(1)report a "hit-and-run" accident to the police within 24 hours and to us within 30 days.
(2)let us see the insured *car* the *person occupied* in the accident.
d. under the no-fault and uninsured motor vehicle coverages, send us at once a copy of all suit papers if the *person* sues the party liable for the accident for damages.
e. under the no-fault and death, dismemberment and loss of sight coverages, give us proof of claim as soon as practicable on forms we furnish.

5. Insured's Duty to Cooperate With Us.
The *insured* shall cooperate with us and, when asked, assist us in:

a. making settlements;
b. securing and giving evidence;
c. attending, and getting witnesses to attend, hearings and trials.

The *insured* shall not, except at his or her own cost, voluntarily:

a. make any payment or assume any obligation to others; or
b. incur any expense, other than for first aid to others.

SECTION I – LIABILITY – COVERAGE A

You have this coverage if "A" appears in the "Coverages" space on the declarations page.

We will:

1. pay damages which an *insured* becomes legally liable to pay because of:
a. *bodily injury* to others, and
b. damage to or destruction of property including loss of its use,
caused by accident resulting from the ownership, maintenance or use of *your car*; and
2. defend any suit against an *insured* for such damages with attorneys hired and paid by us. We will not defend any suit after we have paid the applicable limit of our liability for the accident which is the basis of the lawsuit.

In addition to the limits of liability, we will pay for an *insured* any costs listed below resulting from such accident.

1. Court costs of any suit for damages.
2. Interest on all damages owed by an *insured* as the result of a judgment until we pay, offer or deposit in court the amount due under this coverage.
3. Premiums or costs of bonds:
a. to secure the release of an *insured's* property attached under a court order. The amount of the bond we pay for shall not be more than our limit of liability; and
b. required to appeal a decision in a suit for damages; and
c. up to $250 for each bail bond needed because of an accident or traffic violation.

We have no duty to furnish or apply for any bonds.

4. Expenses incurred by an *insured*:
a. for loss of wages or salary up to $35 per day if we ask the *insured* to attend the trial of a civil suit.
b. for first aid to others at the time of the accident.
c. at our request.

We have the right to investigate, negotiate and settle any claim or suit.

Coverage For the Use of Other Cars

The liability coverage extends to the use, by an *insured*, of a *newly acquired car*, a *temporary substitute car* or a *non-owned car*.

Who Is An Insured

When we refer to *your car*, a *newly acquired car* or a *temporary substitute car*, *insured* means:

1. *you*;
2. *your spouse*;
3. the *relatives* of the first *person* named in the declarations;
4. any other *person* while using such a *car* if its use is within the scope of consent of *you* or *your spouse*; and
5. any other *person* or *organization* liable for the use of such a *car* by one of the above *insureds*.

When we refer to a *non-owned car*, *insured* means:

1. the first *person* named in the declarations;
2. his or her *spouse*;
3. their *relatives*; and
4. any *person* or *organization* which does not own or hire the *car* but is liable for its use by one of the above *persons*.

THERE IS NO COVERAGE FOR *NON-OWNED CARS*:

1. **IF THE DECLARATIONS STATE THE "USE" OF *YOUR CAR* IS OTHER THAN "PLEASURE AND BUSINESS"; OR**
2. **WHILE:**
   a. **BEING REPAIRED, SERVICED OR USED BY ANY *PERSON* WHILE THAT *PERSON* IS WORKING IN ANY *CAR BUSINESS*; OR**
   b. **USED IN ANY OTHER BUSINESS OR OCCUPATION. This does not apply to a *private passenger car* driven or occupied by the first *person* named in the declarations, his or her *spouse* or their *relatives*.**

Trailer Coverage

Trailers designed to be pulled by a *private passenger car*, except those trailers in 2. below, are covered while used by an *insured* with a *car* we insure for liability. Farm implements and farm wagons are considered trailers while pulled on public roads by a *car* we insure for liability. These trailers are not described in the declarations, and no extra premium is charged.

The following trailers are covered if described in the declarations and extra premium paid:

1. those trailers designed to be pulled by a *private passenger car*:
   a. if designed to carry *persons*; or
   b. while used for business purposes with other than a *private passenger car*; or
   c. while used as premises for office, store or display purposes; or
2. any trailer not designed for use with a *private passenger car*.

THERE IS NO COVERAGE WHEN A TRAILER IS USED WITH A MOTOR VEHICLE WE DO NOT INSURE FOR LIABILITY COVERAGE.

Limits of Liability

The amount of bodily injury liability *coverage* is shown on the declarations page under "Limits of Liability – Coverage A – Bodily Injury, Each Person, Each Accident". Under "Each Person" is the amount of coverage for all damages due to *bodily injury* to one *person*. Under "Each Accident" is the total amount of coverage for all damages due to *bodily injury* to two or more *persons* in the same accident.

The amount of property damage liability coverage is shown on the declarations page under "Limits of Liability – Coverage A – Property Damage, Each Accident".

We will pay damages for which an *insured* is legally liable up to these amounts.

The limits of liability are not increased because more than one *person* or *organization* may be an *insured*.

A motor vehicle and attached trailer are one vehicle. Therefore, the limits are not increased.

When two or more motor vehicles are insured under this section the limits apply separately to each.

When Coverage A Does Not Apply

In addition to the limitations of coverage in "Who Is An Insured" and "Trailers"

THERE IS NO COVERAGE:

1. **WHILE ANY VEHICLE INSURED UNDER THIS SECTION IS:**
   a. **RENTED TO OTHERS OR USED TO CARRY *PERSONS* FOR A CHARGE. This does not apply to the use of a *private passenger car* on a share expense basis.**
   b. **BEING REPAIRED, SERVICED OR USED BY ANY *PERSON* EMPLOYED OR ENGAGED IN ANY WAY IN A *CAR BUSINESS*. This does not apply to:**
      (1) *you*, *your spouse* or any *relative*; or
      (2) any agent, employee or partner of *yours*, *your spouse* or any *relative*. The coverage is excess for these *persons*.
   c. **USED TO TOW A TRAILER NOT INSURED BY US.**
2. **FOR ANY *BODILY INJURY* TO:**
   a. **A FELLOW EMPLOYEE WHILE ON THE JOB AND ARISING FROM THE MAINTENANCE OR USE OF A VEHICLE BY ANOTHER EMPLOYEE IN THE EMPLOYER'S BUSINESS. *You* and *your spouse* are covered for such injury to a fellow employee.**
   b. **ANY EMPLOYEE OF AN *INSURED* ARISING OUT OF HIS OR HER EMPLOYMENT. This does not apply to a household employee who is not covered or required to be covered under any worker's compensation insurance.**
   c. **ANY *INSURED* OR ANY MEMBER OF AN *INSURED'S* FAMILY RESIDING IN THE *INSURED'S* HOUSEHOLD.**

3. FOR ANY DAMAGES:

a. FOR WHICH THE UNITED STATES MIGHT BE LIABLE FOR THE *INSURED'S* USE OF ANY VEHICLE.

b. TO PROPERTY OWNED BY, RENTED TO, IN CHARGE OF OR TRANSPORTED BY AN *INSURED*. But coverage applies to a rented residence or private garage damaged by a *car* we insure.

4. FOR ANY OBLIGATION OF AN *INSURED*, OR HIS OR HER INSURER, UNDER ANY TYPE OF WORKER'S COMPENSATION OR DISABILITY OR SIMILAR LAW.

5. FOR LIABILITY ASSUMED BY THE *INSURED* UNDER ANY CONTRACT OR AGREEMENT.

If There is Other Liability Coverage or If You Own More Than One Vehicle

1. Vehicles You Own.

a. If the vehicle involved in the accident is owned by *you* or *your spouse*, this coverage applies only if it is:

(1) *your car*; or

(2) a trailer described under "Trailer Coverage" for which no extra premium is charged; or

(3) a *newly acquired car*. THIS COVERAGE DOES NOT APPLY IF THERE IS OTHER VEHICLE LIABILITY COVERAGE ON THE *NEWLY ACQUIRED CAR*.

b. If *your car* is also described in a policy issued to you by another company, the total limits of liability shall not exceed those of the policy with the highest limits of liability. We are liable only for our share of the damages. Our share is the per cent that the limit of liability of the policy issued by us bears to the sum of the limits of liability of the policies issued by us and the other company.

2. Policies Issued by Us to You.

If two or more vehicle liability policies issued by us to *you* apply to the same accident, the total limits of liability under all such policies shall not exceed that of the policy with the highest limit of liability.

3. Temporary Substitute Car, Non-Owned Car, Trailer.

If a *temporary substitute car*, a *non-owned car* or a trailer designed for use with a *private passenger car* has other vehicle liability coverage on it, then this coverage is excess. THIS COVERAGE SHALL NOT APPLY:

a. IF THE VEHICLE IS OWNED BY ANY *PERSON* OR ORGANIZATION IN A *CAR BUSINESS*; AND

b. IF THE *INSURED* OR THE OWNER HAS OTHER PRIMARY, EXCESS OR CONTINGENT LIABILITY COVERAGE APPLICABLE IN WHOLE OR IN PART.

4. Other Liability Coverage Available From Other Sources.

Subject to items 1, 2 and 3, if other vehicle liability coverage applies, we are liable only for our share of the damages. Our share is the per cent that the limit of liability of the policy issued by us bears to the total of all vehicle liability coverage applicable to the accident.

Motor Vehicle Compulsory Insurance Law or Financial Responsibility Law

1. Out-of-State Coverage.

If an *insured* under the liability coverage is in another state or Canada and, as a non-resident, becomes subject to its motor vehicle compulsory insurance, financial responsibility or similar law:

a. the policy will be interpreted to give the coverage required by the law; and

b. the coverage as given replaces any coverage in this policy to the extent required by the law for the *insured's* operation, maintenance or use of a *car* insured under this policy.

Any coverage so extended shall be reduced to the extent other coverage applies to the accident. In no event shall a *person* collect more than once.

2. Financial Responsibility Law.

When certified under any law as proof of future financial responsibility, and while required during the policy period, this policy shall comply with such law to the extent required. The *insured* agrees to repay us for any payment we would not have had to make under the terms of this policy except for this agreement.

SECTION II – NO-FAULT – COVERAGE P AND MEDICAL PAYMENTS – COVERAGE C

NO-FAULT – COVERAGE P. You have this coverage if "P" appears in the "Coverages" space on the declarations page. If a deductible applies the amount is shown by the number beside "P".

What We Pay.

We will pay in accordance with the *No-Fault Act* for *bodily injury* to an *insured*, caused by an accident resulting from the ownership, maintenance or use of a *motor vehicle*:

1. Medical Expenses. Reasonable charges incurred for necessary:

a. medical, surgical, X-ray, dental, ambulance, hospital, professional nursing and rehabilitative services,

b. eyeglasses, hearing aids and prosthetic devices, and

c. remedial religious treatment or services by a recognized method of healing.

2. Income Loss. Loss of income and earning capacity due to the *insured's* inability to work caused by his or her *bodily injury* during the time the *insured* is not able to work.

3. Replacement Services Loss. Reasonable expenses incurred for ordinary and needed services the *insured* would have done, except for the injury, for the benefit of his or her household during the time the *insured* is not able to work.

4. Funeral Expenses. Funeral, burial or cremation expenses of no more than $1,000.

Insured– means:

1. *you* or any *relative*:
   a. while occupying a *motor vehicle*; or
   b. struck as a *pedestrian* by a *motor vehicle*;
2. anyone else while occupying or when struck as a *pedestrian* by a *motor vehicle* insured under liability and no-fault coverages of this policy.

Motor Vehicle– means a four-wheel self-propelled vehicle of a type that must be registered and licensed under Florida law and which is:

1. a *private passenger car*; or
2. a. a pickup or panel truck, or
   b. a utility vehicle used as a camper or motor home or for family recreational purposes and not primarily to carry passengers.

It does not include a vehicle:

1. under 2.a. and b. above, used mainly in the occupation, business or profession of the owner;
2. used as a public or livery carrier; or
3. owned by any government.

No-Fault Act– means the Florida Automobile Reparations Reform Act and any amendments.

Pedestrian– means a person while not an occupant of any self-propelled vehicle.

Payment of Any Amount Due.

We will pay any amount due:

1. to the *insured*;
2. to a parent or guardian, if the *insured* is a minor or an incompetent person;
3. to the surviving spouse; or
4. at our option to a person authorized by law to receive such payment.

Limits of Liability.

The most we pay for each *insured* for all loss and expense from one accident shall be $5,000. The total aggregate limits available from this and all other no-fault coverages and bonds shall be reduced by the amount of worker's compensation benefits received for the same items of loss and expense.

When Payments Are Reduced.

We will reduce the amount payable by:

1. any deductible *you* chose. The deductible applies to:
   a. the *persons insured* in the exemptions spaces on the declarations page; or, if none is named,
   b. *you* and each *relative* separately; and
2. the amount of any worker's compensation benefits paid or payable for the same items of loss and expense.

The most we pay is the difference between the amount of the deductible and $5,000.

No Duplication of Benefits.

No *insured* shall recover twice for the same expense or loss under this or similar vehicle insurance or self-insurance.

If There Is Other No-Fault Coverage or If You Own More Than One Vehicle.

1. Vehicles You Own.
   a. If the vehicle involved in the accident is owned by *you* or *your* spouse, this coverage applies only if it is:
      (1) *your car*; or
      (2) a *newly acquired car*. THIS COVERAGE DOES NOT APPLY IF THERE IS OTHER NO-FAULT COVERAGE ON THE *NEWLY ACQUIRED CAR*.
   b. If *your car* is also described in a policy issued to you by another company, the total limits of liability shall not exceed those of the policy with the highest limits of liability. We are liable only for our share of the damages. Our share is the per cent that the limit of liability of the policy issued by us bears to the sum of the limits of liability of the policies issued by us and the other company.
2. Policies Issued by Us to You.
   If two or more policies providing no-fault coverage issued by us to *you* apply to the same accident, the total limits of liability under all such policies shall not exceed that of the policy with the highest limit of liability.
3. Coverage Available From Other Sources.
   Subject to Items 1 and 2, if other no-fault coverage applies, we will pay only our share. Our share is the per cent that the limit of liability of the policy issued by us bears to the total of all coverage applicable to the accident.

What Is Not Covered Under Coverage F?

THERE IS NO COVERAGE:

1. FOR *BODILY INJURY* TO:
   a. ANY *PEDESTRIAN* NOT A LEGAL RESIDENT OF FLORIDA. This does not apply to *you* or any *relative*.
   b. ANY *PERSON* ENTITLED TO NO-FAULT BENEFITS FROM:
      (1)THE OWNER OF A *MOTOR VEHICLE* OTHER THAN *YOU* OR
      (2)THAT OWNER'S INSURER.
      This does not apply to *you* or any *relative*.
2. TO ANY *PERSON*:
   a. WHOSE CONDUCT CONTRIBUTED TO HIS OR HER *BODILY INJURY* UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:
      (1)CAUSING *BODILY INJURY* TO HIMSELF OR HERSELF INTENTIONALLY;
      (2)CONVICTED OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR NARCOTIC DRUGS TO THE EXTENT THAT HIS OR HER DRIVING FACULTIES ARE IMPAIRED; OR
      (3)WHILE COMMITTING A FELONY;
   b. WHOSE *BODILY INJURY* OCCURRED WHILE:
      (1)DRIVING *YOUR CAR* OR A *NEWLY ACQUIRED CAR* WITHOUT *YOUR* PERMISSION;
      (2)OCCUPYING A *MOTOR VEHICLE* LOCATED FOR USE AS A DWELLING OR PREMISES;
   c. WHO OWNS A *MOTOR VEHICLE* SUBJECT TO THE *NO-FAULT ACT*. This does not apply to *you* and, if the accident occurs outside Florida, any *relative* while occupying *your car*.

MEDICAL PAYMENTS -- COVERAGE C. You have this coverage if "C" appears in the "Coverages" space on the declarations page.

We will pay reasonable medical expenses for *bodily injury* for services furnished within one year of the date of the accident. These expenses are for necessary:

1. medical, surgical, X-ray, dental, ambulance, hospital, professional nursing and rehabilitative services,
2. eyeglasses, hearing aids and prosthetic devices,
3. essential religious treatment or services by a recognized method of healing, and
4. funeral expenses.

The accident must result from the ownership, maintenance or use of a motor vehicle.

Persons for Whom Medical Expenses Are Payable.

We will pay medical expenses for *bodily injury* sustained by:

1. a. the first *person* named in the declarations;
   b. his or her spouse; and
   c. their relatives.

   These persons have to sustain the *bodily injury*:
   a. while they operate or occupy a vehicle covered under the liability section; or
   b. through being struck as a *pedestrian* by a self-propelled vehicle or trailer.

   Pedestrian--means a person while not in or upon of any self-propelled vehicle.
2. any other *person* while occupying:
   a. a vehicle covered under the liability coverage, except a *non-owned car*. Such vehicle has to be used by a person who is insured under the liability coverage; or
   b. a *non-owned car*. The *bodily injury* has to result from such car's operation or occupancy by the first *person* named in the declarations, his or her *spouse* or their *relatives*.

Any payment shall be applied toward the settlement of a claim or payment of a money judgment for *bodily injury* against any insured under the liability coverage.

Payment of Any Amount Due.

We may pay the injured *person* or any *person* or organization performing the services.

Limits of Liability.

1. The amount of coverage for medical expenses, including funeral services, is shown on the declarations page under "Limit of Liability -- Coverage C -- Each Person". The most we pay for funeral services is $1,000 per *person*.
2. This coverage is excess over any medical expenses paid or payable under the no-fault coverage, or which would be except for a deductible.

Two or More Vehicles.

1. A motor vehicle and attached trailer are one vehicle as respects limits.
2. When two or more motor vehicles are insured under this coverage the limits apply separately to each.

If There Are Other Medical Payments Coverages or If You Own More Than One Vehicle

1. **Vehicles You Own.**
   a. If the vehicle involved in the accident is owned by *you* or *your spouse*, this coverage applies only if it is:
      (1) *your car*; or
      (2) a trailer described under "Trailer Coverage" for which no extra premium is charged; or
      (3) a *newly acquired car*. THIS COVERAGE DOES NOT APPLY IF THERE IS OTHER VEHICLE MEDICAL PAYMENTS COVERAGE ON THE *NEWLY ACQUIRED CAR*.
   b. If *your car* is also described in a policy issued to you by another company, the total limits of liability shall not exceed those of the policy with the highest limits of liability. We are liable only for our share of the damages. Our share is the per cent that the limit of liability of the policy issued by us bears to the sum of the limits of liability of the policies issued by us and the other company.
2. **Policies Issued by Us to You.**

   If two or more vehicle policies providing medical payments coverage issued by us to you apply to the same accident, the total limits of liability under all such policies shall not exceed that of the policy with the highest limit of liability.
3. **Temporary Substitute Car, Non-Owned Car, Trailer, Pedestrian.**

   This coverage is excess if other vehicle medical payments coverage applies to:
   a. a *temporary substitute car*, a *non-owned car* or a trailer; or
   b. *bodily injury* sustained by a *pedestrian*.
4. **Coverage Available From Other Sources.**

   Subject to items 1, 2 and 3, if other vehicle medical payments coverage applies, we are liable only for our share of the damages. Our share is the per cent that the limit of liability of the policy issued by us bears to the total of all vehicle medical payments coverage applicable to the accident.

What Is Not Covered Under Coverage C

THERE IS NO COVERAGE UNDER MEDICAL PAYMENTS:

1. **WHILE A *NON-OWNED CAR* IS USED:**
   a. **BY ANY *PERSON* EMPLOYED OR ENGAGED IN ANY WAY IN A *CAR BUSINESS*; OR**
   b. **IN ANY OTHER BUSINESS OR JOB. This does not apply when the first person named in the declarations, his or her spouse or any relative is operating or occupying a *private passenger car*.**
2. **WHILE *OCCUPYING* OR THROUGH BEING STRUCK BY ANY MOTOR VEHICLE OR TRAILER:**
   a. **DESIGNED MAINLY FOR USE OFF PUBLIC ROADS WHILE OFF PUBLIC ROADS; OR**
   b. **LOCATED FOR USE AS A RESIDENCE OR PREMISES; OR**
   c. **THAT RUNS ON RAILS OR CRAWLER-TREADS.**
3. **FOR *BODILY INJURY* DUE TO WAR OF ANY KIND.**
4. **FOR MEDICAL EXPENSES FOR *BODILY INJURY*:**
   a. **SUSTAINED WHILE *OCCUPYING* OR THROUGH BEING STRUCK BY A VEHICLE OWNED BY *YOU*, *YOUR SPOUSE*, OR ANY *RELATIVE*, WHICH IS NOT INSURED UNDER THIS COVERAGE; OR**
   b. **TO THE EXTENT WORKER'S COMPENSATION BENEFITS ARE REQUIRED TO BE PAYABLE; OR**
   c. **SUSTAINED BY ANY *PERSON*, other than the first person named, his or her spouse or their relatives, WHILE *OCCUPYING* A VEHICLE:**
      (1)RENTED TO OTHERS;
      (2)USED TO CARRY *PERSONS* FOR A CHARGE. This does not apply to a *private passenger car* used on a share expense basis.
      (3)USED TO TOW A TRAILER NOT INSURED BY US.

SECTION III – UNINSURED MOTOR VEHICLE – COVERAGE U

You have this coverage if "U" appears in the "Coverages" space on the declarations page.

We will pay damages for *bodily injury* an *insured* is legally entitled to collect from the owner or driver of an uninsured motor vehicle. The *bodily injury* must be caused by accident arising out of the operation, maintenance or use of an uninsured motor vehicle.

***Uninsured Motor Vehicle*—means:**

1. **a land motor vehicle not insured or bonded for bodily injury liability at the time of the accident; or**
2. **a land motor vehicle insured or bonded for bodily injury liability at the time of the accident, but**
   a. **the limits of liability are less than required by the financial responsibility act of the state where your car is mainly garaged; or**
   b. **the limits of liability are less than the limits you carry for uninsured motor vehicle coverage under this policy; or**
   c. **the insuring company denies coverage or is or becomes insolvent; or**
3. **a "hit-and-run" land motor vehicle whose owner or driver remains unknown and which strikes:**
   a. **the *insured* or**
   b. **the vehicle the *insured* is occupying and causes *bodily injury* to the *insured*.**

An *uninsured motor vehicle* does not include a land motor vehicle:

1. **insured under the liability coverage of this policy;**
2. **furnished for the regular use of *you*, *your spouse* or any *relative*;**
3. **owned or operated by a self-insurer under any motor vehicle financial responsibility law, a "motor carrier" law or any similar law;**
4. **owned by any government or any of its political subdivisions or agencies;**
5. **designed for use mainly off public roads except while on public roads;**
6. **while located for use as premises.**

Who Is An Insured

***Insured*—means the person or persons covered by uninsured motor vehicle coverage.**

This is:

1. **the first person named in the declarations;**
2. **his or her spouse;**
3. **their relatives; and**
4. **any other person while occupying:**
   a. ***your car***, **a *temporary substitute car* or a *newly acquired car*. Such *car* has to be used within the scope of the consent of the first person named in the declarations or that person's spouse; or**
   b. **a *car* not owned by *you*, *your spouse* or any *relative*. It has to be driven by the first person named or that person's spouse and within the scope of the owner's consent.**

   Such other person occupying a *car* used to carry *persons* for a charge is not an *insured*.
5. **any person entitled to recover damages because of *bodily injury* to an *insured* under 1 through 4 above.**

Deciding Fault and Amount

Two questions must be decided by agreement between the *insured* and us:

1. Is the *insured* legally entitled to collect damages from the owner or driver of the *uninsured motor vehicle*; and
2. If so, in what amount?

If there is no agreement, these questions shall be decided by arbitration upon written request of the *insured* or us. Each party shall select a competent and impartial arbitrator. These two shall select a third one. If unable to agree on the third one within 30 days either party may request a judge of a court of record in the county in which the arbitration is pending to select a third one. The written decision of any two arbitrators shall be binding on each party.

The cost of the arbitrator and any expert witness shall be paid by the party who hired them. The cost of the third arbitrator and other expenses of arbitration shall be shared equally by both parties.

The arbitration shall take place in the county in which the *insured* resides unless the parties agree to another place. State court rules governing procedure and admission of evidence shall be used.

We are not bound by any judgment against any person or organization obtained without our written consent.

Payment of Any Amount Due

We will pay any amount due:

1. to the *insured*;
2. to a parent or guardian if the *insured* is a minor or an incompetent *person*;
3. to the surviving spouse; or
4. at our option, to a *person* authorized by law to receive such payment.

Limits of Liability

1. The amount of coverage is shown on the declarations page under "Limits of Liability – U – Each Person, Each Accident". Under "Each Person" is the amount of coverage for all damages due to *bodily injury* to one *person*. Under "Each Accident" is the total amount of coverage for all damages due to *bodily injury* to two or more *persons* in the same accident.
2. Any amount payable under this coverage shall be reduced by:
   a. any amount paid or for the *insured* by or for any *person* or organization who is or may be held legally liable for the *bodily injury* to the *insured* and who has no vehicle liability policy; and
   b. any amount paid or payable to or for the *insured* for *bodily injury* under:
      (1)the liability coverage of this policy or
      (2)any worker's compensation, disability benefits or similar law;
   c. the total of the bodily injury limits of liability of all other vehicle liability policies or bonds that apply to any *person* or organization legally liable for such *bodily injury*.
3. Any payment made to a *person* under this coverage shall reduce any amount payable to that *person* under the bodily injury liability coverage.
4. This coverage is excess over any amount paid or payable under:
   a. the no-fault coverage, or which would be except for a deductible; and
   b. the medical payments coverage.
5. The limits of liability are not increased because:
   a. more than one vehicle is insured under this policy; or
   b. more than one *person* is insured at the time of the accident.

When Coverage U Does Not Apply

THERE IS NO COVERAGE:

1. FOR ANY *INSURED* WHO, WITHOUT OUR WRITTEN CONSENT, SETTLES WITH ANY *PERSON* OR ORGANIZATION WHO MAY BE LIABLE FOR THE *BODILY INJURY*.
2. FOR *BODILY INJURY* TO AN *INSURED*:
   a. WHILE *OCCUPYING*, OR
   b. THROUGH BEING STRUCK BY
   A MOTOR VEHICLE OWNED BY YOU, YOUR SPOUSE OR ANY *RELATIVE* IF IT IS NOT INSURED FOR THIS COVERAGE UNDER THIS POLICY.
3. TO THE EXTENT IT BENEFITS:
   a. ANY WORKER'S COMPENSATION OR DISABILITY BENEFITS INSURANCE COMPANY.
   b. A SELF-INSURER UNDER ANY WORKER'S COMPENSATION, OR DISABILITY BENEFITS OR SIMILAR LAW.
   c. ANY GOVERNMENTAL BODY OR AGENCY.

If There Is Other Uninsured Motor Vehicle Coverage or If You Own More Than One Vehicle

1. Vehicles You Own.
   a. If the vehicle involved in the accident is owned by *you* or *your spouse*, this coverage applies only if it is:
      (1)*your car*; or
      (2)a *newly acquired car*. THIS COVERAGE DOES NOT APPLY IF THERE IS OTHER UNINSURED MOTOR VEHICLE COVERAGE ON THE *NEWLY ACQUIRED CAR*.
   b. If *your car* is also described in a policy issued to you by another company, the total limits of liability shall not exceed those of the policy with the highest limits of liability. We are liable only for our share of the damages. Our share is the per cent that the limit of liability of the policy issued by us bears to the sum of the limits of liability of the policies issued by us and the other company.
2. Policies Issued by Us to You.
   If two or more motor vehicle policies providing uninsured motor vehicle coverage issued by us to you

apply to the same accident, the total limits of liability under all such policies shall not exceed that of the policy with the highest limit of liability.

3. Vehicles Other Than Your Car.

If a *temporary substitute car* or a vehicle not owned by you, your spouse or any relative has uninsured motor vehicle coverage on it, this coverage is excess.

4. Other Uninsured Motor Vehicle Coverage Available From Other Sources.

Subject to items 1, 2 and 3, if other uninsured motor vehicle coverage applies, we are liable only for our share of the damages. Our share is the per cent that the limit of liability of the policy issued by us bears to the total of all uninsured motor vehicle coverage applicable to the accident.

SECTION IV—PHYSICAL DAMAGE COVERAGES

Loss—means, when used in this section, sudden, direct and accidental loss of or damage to:

1. *your car*,
2. its equipment which is common to the use of *your car* as a vehicle, or
3. clothes and luggage insured, and
4. a detachable living quarters attached or removed from *your car* for storage. Detachable living quarters includes its body and items currently fixed in place as a permanent part of the body. You must have told us about the living quarters before the loss and paid any extra premium needed.

COMPREHENSIVE – COVERAGE D. You have this coverage if "D" appears in the "Coverages" space on the declarations page. If a deductible applies the amount is shown by the number beside "D".

1. Loss to Your Car. We will pay for loss to *your car* EXCEPT *LOSS BY COLLISION* less only the amount of each such loss in excess of the deductible amount, if any.

   Breakage of glass, or loss caused by missiles, falling objects, fire, theft, larceny, explosion, earthquake, windstorm, hail, water, flood, malicious mischief or vandalism, riot or civil commotion, is payable under this coverage. Loss due to hitting or being hit by a bird or an animal is payable under this coverage.

2. We will repay you for transportation costs if *your car* is stolen. We will pay up to $10 per day for the period that begins 48 hours after you tell us of the theft. The period ends when we offer to pay for loss.

COLLISION – $50 – COVERAGE F. You have this coverage if "F" appears in the "Coverages" space on the declarations page.

We will pay $50 of the first $250 and 100% over that amount of loss to *your car* caused by collision. If the collision is with another vehicle insured by us, we will pay 100% of the loss.

COLLISION – COVERAGE G. You have this coverage if "G" appears in the "Coverages" space on the declarations page. The deductible amount is shown by the number beside "G".

We will pay for loss to *your car* caused by collision less only the amount of each such loss in excess of the deductible amount. If the collision is with another motor vehicle insured with us, *you* do not pay *your* deductible if it is $100 or less as we pay it.

Collision—means *your car* upset or hit or was hit by a vehicle or other object.

Clothes and Luggage – Comprehensive and Collision Coverages

We will pay for loss to clothes and luggage owned by the first person named in the declarations, his or her spouse, and their relatives. These items have to be in or on *your car*. *Your car* has to be covered under this policy for:

1. Comprehensive, and the loss caused by fire, lightning, flood, falling objects, explosion, earthquake or theft. If the loss is due to theft *YOUR ENTIRE CAR MUST HAVE BEEN STOLEN*; or
2. Collision, and the loss caused by collision.

We will pay up to $300 for loss to clothes and luggage in excess of any deductible amount shown for comprehensive or collision. $300 is the most we will pay in any one occurrence even though more than one person has a loss. This coverage is excess over any other coverage.

Limit of Liability – Comprehensive and Collision Coverages

The limit of our liability for loss to property or any part of it is the lesser of:

1. the actual cash value; or
2. the cost of repair or replacement.

Actual cash value is determined by the market value, age and condition of the item at the time the loss occurred. Any deductible amount that applies is then subtracted.

Settlement of Loss—Comprehensive and Collision Coverages

We have the right to settle a loss with you or the owner of the property in one of the following ways:

1. pay up to the actual cash value;
2. repair or replace the property or part with like kind and quality less any depreciation;
3. return the stolen property and pay for any damage due to the theft; or
4. take the property at an agreed value; but it cannot be abandoned to us.

If we can pay the loss under other comprehensive or collision, we will pay under the coverage which pays without the most.

When there is loss to *your car*, clothes and luggage in the same occurrence, any deductible will be applied first to the loss to *your car*. You pay only one deductible.

EMERGENCY ROAD SERVICE – COVERAGE H. You have this coverage if "H" appears in the "Coverages" space on the declarations page.

We will pay the fair cost you incur for your car for:

1. mechanical labor up to one hour at the place of its breakdown;
2. towing to the nearest place where the necessary repairs can be made during regular business hours if it will not run;
3. towing it out if it is stuck on or immediately next to a public highway;
4. delivery of gas, oil, loaned battery, or change of tire.

WE DO NOT PAY FOR THE COST OF THESE ITEMS.

CAR RENTAL EXPENSE – COVERAGE R. You have this coverage if "R" appears in the "Coverages" space on the declarations page.

We will repay you up to $30 per day when you rent a car from a car rental agency or garage due to a loss to your car, starting:

1. when it cannot run due to the loss; or
2. if it can run, when you leave it at the shop for agreed repairs;

and ending when:

1. it has been repaired or replaced, or
2. we offer to pay for the loss, or
3. you incur 30 days rent,

whichever comes first.

Any car rent payable under Coverage R is REDUCED TO THE EXTENT IT IS PAYABLE UNDER COMPREHENSIVE.

CAR RENTAL AND TRAVEL EXPENSE – COVERAGE R1. You have this coverage if "R1" appears in the "Coverages" space on the declarations page.

1. Car Rental Expense. We will repay you up to $14 per day when you rent a car from a car rental agency or garage due to a loss to your car, starting:
   a. when it cannot run due to the loss; or
   b. if it can run, when you leave it at the shop for agreed repairs;

   and ending when:
   a. it has been repaired or replaced, or
   b. we offer to pay for the loss,

   whichever comes first.

   Any car rent payable under this coverage is REDUCED TO THE EXTENT IT IS PAYABLE UNDER COMPREHENSIVE.
2. Travel Expense. If your car cannot run due to a loss more than 50 miles from home, we will repay you for expenses incurred by you, your guests and any relative for:
   a. Commercial transportation fares to continue to your destination or home.
   b. Extra meals and lodging needed when the loss to your car causes a delay overnight. The expenses must be incurred between the time of the loss and your arrival at your destination or home or by the end of the fifth day, whichever occurs first.
   c. Meals, lodging and commercial transportation fares incurred by you or a person you choose to drive your car from the place of repair to your destination or home.
3. Rental Car – Repayment of Deductible Amount Expense. We will repay the expense of any deductible amount you are required to pay the owner under comprehensive or collision coverage in effect on a substitute car rented from a car rental agency or garage.

Total Amount of Expenses Payable – Coverage R1

$400 is the most we will pay for these expenses incurred by all persons in any one occurrence.

Trailer Coverage

1. Owned Trailer.
   Your trailer is covered:
   a. when it is described on the declarations page of the policy; and
   b. for the coverages shown as applying to it.
2. Non-Owned Trailer or Detachable Living Quarters.
   Any comprehensive or collision coverage in force on your car applies up to $500 for loss to a non-owned:
   a. trailer, if it is designed for use with a private passenger car, or
   b. detachable living quarters unit

   used by the first person named in the declarations, his or her spouse or their relatives.

A non-owned trailer or detachable living quarters unit is one that is not:

1. owned by,
2. registered in the name of, or
3. furnished or available for the regular or frequent use of

you, your spouse or any relative.

Coverage For the Use of Other Cars

The coverages in this section you have on your car extend to a loss to a newly acquired car, a temporary substitute car or a non-owned car. These coverages extend to a non-owned car while it is driven by or in the custody of the first person named in the declarations, his or her spouse or their relatives. In no loss to be within the scope of the consent of the owner or person in lawful possession.

A *non-owned car* means a:

1. *private passenger car*; or
2. *car* with a pickup, panel or van body with a load capacity of 2,000 pounds or less

that is not:

1. owned by,
2. registered in the name of, or
3. furnished or available for the regular or frequent use of

you, *your spouse* or any *relatives*.

When Coverages D, F, G, H, R and R1 Do Not Apply

THERE IS NO COVERAGE FOR:

1. A *NON-OWNED CAR*:
   a. IF THE DECLARATIONS STATE THE "USE" OF *YOUR CAR* IS other than pleasure and business;
   b. WHILE BEING REPAIRED, SERVICED OR USED BY ANY *PERSON* WHILE THAT *PERSON* IS WORKING IN ANY *CAR BUSINESS*; OR
   c. WHILE USED IN ANY OTHER BUSINESS OR OCCUPATION. This does not apply to a *private passenger car* driven or occupied by the first *person* named in the declarations, his or her *spouse* or their *relatives*.
2. ANY VEHICLE WHILE:
   a. RENTED TO OTHERS OR USED TO CARRY *PERSONS* FOR A CHARGE. This does not apply to the use on a share expense basis; OR
   b. SUBJECT TO ANY LIEN, RENTAL OR SALES AGREEMENT NOT SHOWN IN THE DECLARATIONS.
3. *LOSS* TO ANY VEHICLE DUE TO:
   a. TAKING BY ANY GOVERNMENTAL AUTHORITY;
   b. WAR OF ANY KIND;
   c. AND LIMITED TO WEAR AND TEAR, FREEZING, MECHANICAL OR ELECTRICAL BREAKDOWN OR FAILURE. This does not apply when the *loss* is the result of a theft covered by this policy. Nor does it apply to emergency road service; OR
   d. CONVERSION, EMBEZZLEMENT OR SECRETION BY ANY *PERSON* WHO HAS THE VEHICLE DUE TO ANY LIEN, RENTAL OR SALES AGREEMENT.
4. TIRES unless:
   a. stolen, or damaged by fire or vandalism; or
   b. other *loss* covered by this section happens at the same time.
5. TAPES FOR RECORDING OR REPRODUCING SOUND.
6. *LOSS* BY THEFT OF A CITIZENS BAND RADIO, TAPE RECORDER OR PLAYER OR ANY ELECTRONIC DEVICE WHICH INCLUDES OR COMBINES ANY OF THESE ITEMS. This does not apply if it is permanently installed in the opening of the dash or console of *your car* normally used by the maker of *your car* for the installation of a radio.

If There Is Other Physical Damage Coverage on If You Own More Than One Vehicle

1. Vehicles You Own.
   a. If the vehicle involved in the accident is owned by *you* or *your spouse*, this coverage applies only if it is:
      (1) *your car*; or
      (2) a *newly acquired car*. THIS INSURANCE DOES NOT APPLY IF THERE IS SIMILAR COVERAGE ON THE *NEWLY ACQUIRED CAR*.
   b. If *your car* is also described in a policy issued to you by another company, the total limits of liability shall not exceed those of the policy with the highest limits of liability. We are liable only for our share of the damages. Our share is the per cent that the limit of liability of the policy issued by us bears to the sum of the limits of liability of the policies issued by us and the other company.
2. Policies Issued by Us to You.
   If two or more vehicle policies issued by us to you apply to the same *loss* or occurrence, we will pay under the policy with the highest limit.
3. Temporary Substitute Car, Non-Owned Car or Trailer.
   If a *temporary substitute car*, a *non-owned car* or a trailer designed for use with a *private passenger car* has other coverage on it, this coverage is excess. THIS COVERAGE SHALL NOT APPLY:
   a. IF THE VEHICLE IS OWNED BY ANY *PERSON* OR ORGANIZATION IN A *CAR BUSINESS*; AND
   b. IF *YOU* OR THE OWNER HAS OTHER PRIMARY, EXCESS OR CONTINGENT COVERAGE APPLICABLE IN WHOLE OR IN PART.
4. Coverage Available From Other Sources.
   Subject to lines 1, 2 and 3, if other coverage applies to the *loss* or expenses, we will pay only our share. Our share is the per cent that the limit of liability of the policy issued by us bears to the total of all coverage that applies.

No Benefit To Bailee

These coverages shall not benefit any carrier or other bailee for hire liable for *loss*.

Two Or More Vehicles

If two or more of *your cars* are insured for the same coverage, the coverage applies separately to each.

SECTION V – DEATH, DISMEMBERMENT AND LOSS OF SIGHT – COVERAGE S

If "S" is shown in the "Coverages" space on the declarations page each *insured* has the coverage.

We will pay the amount shown in the schedule that applies for death, or *loss*, caused by accident. The *insured* has to be occupying or be struck by a land motor vehicle or trailer. The death or *loss* must be the direct result of the accident and not due to any other cause. The death or *loss* must occur within 90 days of the accident.

Insured—means a *person* listed under "Persons Insured – Coverage S" on the declarations page.

Loss—means the loss of:

1. the foot or hand, cut off through or above the ankle or wrist; or
2. the whole thumb or finger; or
3. all of it.

The Most We Pay

The most we will pay because of the death of, or loss to, the *insured* is shown under "Amounts" next to his or her name on the declarations page. If the *insured* dies as a result of the accident any payment made or due for loss reduces the amount of the death payment.

SCHEDULE

	If amount under S in the declarations is:	
	$5,000	$10,000
Death	$5,000	$10,000
Loss of:		
hands; feet; sight of eyes; one hand & one foot; or one hand or one foot & sight of one eye	5,000	10,000
one hand or one foot; or sight of one eye	2,500	5,000
thumb & finger on one hand; or three fingers	1,500	3,000
any two fingers	1,000	2,000

Payment of Any Amount Due

We will pay any amount due:

1. to the *insured*;
2. to a parent or guardian if the *insured* is a minor or an incompetent *person*;
3. to the surviving spouse; or
4. at our option, to any *person* or organization authorized by law to receive such payment.

Any payment made is to its extent a complete discharge of our obligations. We are not responsible for the way the money is used.

Autopsy

We have the right to have an autopsy made where it is not forbidden by law.

When Coverage S Does Not Apply

THIS COVERAGE DOES NOT APPLY TO DEATH OF OR *LOSS* TO AN *INSURED*:

1. WHILE ON THE JOB, OPERATING, *OCCUPYING*, LOADING OR UNLOADING:
   a. AN EMERGENCY VEHICLE; OR
   b. A VEHICLE USED IN THE *INSURED'S* BUSINESS OR JOB.
   But 1.b. does not apply if the vehicle is:
   (1)a *private passenger car* or school bus; or
   (2)of the pickup or van type, with a load capacity of 2,000 pounds or less, while not used for delivery.
2. WHILE:
   a. ON THE JOB IN ANY *CAR BUSINESS*;
   b. *OCCUPYING* ANY:
   (1)VEHICLE WHILE BEING USED IN A RACE; OR
   (2)MILITARY VEHICLE.
3. DUE TO:
   a. DISEASE except pus forming infection due to *bodily injury* received in the accident; or
   b. SUICIDE OR ATTEMPTED SUICIDE WHILE SANE OR INSANE; OR
   c. WAR OF ANY KIND.
4. WHILE *OCCUPYING* OR THROUGH BEING STRUCK BY A MOTOR VEHICLE OR TRAILER:
   a. THAT RUNS ON RAILS OR CRAWLER-TREADS;
   b. DESIGNED FOR USE MAINLY OFF PUBLIC ROADS WHILE OFF PUBLIC ROADS; OR
   c. LOCATED FOR USE AS PREMISES.

CONDITIONS

1. **Policy Changes.**
   a. **Policy Terms.** The terms of this policy may be changed or waived only by:
   (1)an endorsement signed by one of our executive officers; or
   (2)the revision of this policy form to give broader coverage without an extra charge. If any coverage you carry is changed to give broader coverage, we will give you the broader coverage without the issuance of a new policy as of the date we make the change effective.
   b. **Change of Interest.** No change of interest in this policy is effective unless we consent in writing. However, if you die, we will protect as named insured, except under death, dismemberment and loss of sight coverage:
   (1)your surviving spouse;
   (2)any person with proper custody of your car, a newly acquired car or a temporary substitute car until a legal representative is qualified; and then
   (3)the legal representative while acting within the scope of his or her duties.

6260J MEDICAL PAYMENTS AMENDMENT

This endorsement is a part of *your* policy. Except for the changes it makes, all other terms of the policy remain the same and apply to this endorsement. It is effective at the same time as *your* policy if issued with it. If issued at a later date the name, policy number and effective date must be shown.
Issued by STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY of Bloomington, Illinois, or the STATE FARM FIRE AND CASUALTY COMPANY of Bloomington, Illinois, as shown by the company's name on the policy of which this endorsement is a part.

Named Insured _____

Policy number _____ Countersigned _____ ,19___

Effective date _____ By _____
12:01 A.M. Standard Time Authorized Representative

In consideration of the premium charged, it is agreed the sentence in MEDICAL PAYMENTS – COVERAGE C which reads as follows:

We will pay reasonable medical expenses for *bodily injury* for services furnished within one year of the date of the accident.

is deleted and replaced with the following:

We will pay reasonable medical expenses for *bodily injury* for services furnished within three years of the date of the accident.

Edward B. Rust
President

6260K MEDICAL PAYMENTS – COVERAGE C
(Amendatory Endorsement)

This endorsement is a part of *your* policy. Except for the changes it makes, all other terms of the policy remain the same and apply to this endorsement. It is effective at the same time as *your* policy if issued with it. If issued at a later date the name, policy number and effective date must be shown.
Issued by STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY of Bloomington, Illinois, or the STATE FARM FIRE AND CASUALTY COMPANY of Bloomington, Illinois, as shown by the company's name on the policy of which this endorsement is a part.

Named Insured _____

Policy number _____ Countersigned _____ ,19___

Effective date _____ By _____
12:01 A.M. Standard Time Authorized Representative

In consideration of the premium charged, it is agreed the following changes are made in "Medical Payments – Coverage C."

1. Item 2 of "Limits of Liability" is changed to read:
"2. This coverage is excess over:
   a. any medical expenses paid or payable under no-fault – coverage P, or which would be except for any reduction described under no-fault – coverage P "When Payments Are Reduced"; and
   b. Medicare or military benefits."

2. Item 4b of "What Is Not Covered Under Coverage C" is changed to read:
"b. TO THE EXTENT:
   (1) WORKER'S COMPENSATION BENEFITS ARE REQUIRED TO BE PAYABLE; OR
   (2) MEDICAID BENEFITS ARE PAYABLE; OR"

Edward B. Rust
President

This endorsement replaces No-Fault–Coverage P in Section II of the policy to which it is attached.

6850D.1 NO-FAULT–COVERAGE P
(FLORIDA)

This endorsement is a part of *your* policy. Except for the changes it makes, all other terms of the policy remain the same and apply to this endorsement. It is effective at the same time as *your* policy if issued with it. If issued at a later date the name, policy number and effective date must be shown.
Issued by STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY of Bloomington, Illinois, or the STATE FARM FIRE AND CASUALTY COMPANY of Bloomington, Illinois, as shown by the company's name on the policy of which this endorsement is a part.

Named Insured _____

Policy number _____ Countersigned _____ ,19___

Effective date _____ By _____
12:01 A.M. Standard Time Authorized Representative

NO-FAULT – COVERAGE P. *You* have this coverage if "P" with a number beside it appears in the "Coverages" space on the declarations page. "P" with a number beside it is *your* coverage symbol. Check *your* coverage symbol with the schedule in the Limits of Liability for the choice of options *you* made.

What We Pay.

We will pay in accordance with the *No-Fault Act* for *bodily injury* to an *insured*, caused by an accident resulting from the ownership, maintenance or use of a *motor vehicle*:

1. Medical Expenses. 80% of the reasonable charges incurred for necessary:
   a. medical, surgical, X-ray, dental, ambulance, hospital, professional nursing and rehabilitative services,
   b. eyeglasses, hearing aids and prosthetic devices, and
   c. remedial religious treatment or services by a recognized method of healing.
2. Income Loss. 60% of loss of income and earning capacity due to the *insured's* inability to work caused by his or her *bodily injury* during the time the *insured* is not able to work. If the benefit is subject to federal income tax, we will pay 80% of such loss of income or earning capacity.
3. Replacement Services Loss. Reasonable expenses incurred for ordinary and needed services the *insured* would have done, except for the injury, for the benefit of his or her household during the time the *insured* is not able to work.
4. Funeral Expenses. Funeral, burial or cremation expenses of no more than $1,000.

Insured – means:

1. *you* or any *relative*:
   a. while occupying a *motor vehicle*; or
   b. struck as a *pedestrian* by a *motor vehicle*;
2. anyone else while *occupying* or when struck as a *pedestrian* by *your car*, a *newly acquired car*, a *non-owned car*, a *temporary substitute car* or a trailer which would be covered at no additional charge under the "Trailer Coverage" provision of Section I – Liability – Coverage A.

Motor Vehicle – means a vehicle that:

1. is self-propelled and is of a type:
   a. designed for, and
   b. required to be licensed for use on Florida highways; or
2. is a trailer or semitrailer designed for use with a vehicle described in 1.

It does not include:

1. any self-propelled vehicle with less than 4 wheels;
2. a mobile home; or
3. a vehicle owned by
   a. Florida or one of its subdivisions; or
   b. the federal government.

No-Fault Act – means the Florida Automobile Reparations Reform Act and any amendments.

Pedestrian – means a *person* while not an occupant of any self-propelled vehicle.

Payment of Any Amount Due.
We will pay any amount due:

1. to the *insured*;
2. to a parent or guardian, if the *insured* is a minor or an incompetent *person*;
3. to the surviving spouse; or
4. at our option:
   a. to a *person* authorized by law to receive such payment; or
   b. to the *person* or organization rendering the treatment or services.

When Payments Are Reduced
We will reduce the amount payable by:

1. the deductible amount shown in the schedule for *your* coverage symbol;
2. Medicare or military benefits paid or payable when the schedule shows the reduction for *your* coverage symbol; and

3. the amount of any worker's compensation or Medicaid benefits paid or payable for the same items of loss or expense.

No Duplication of Benefits.

No *insured* shall recover twice for the same expense or loss under this or similar vehicle insurance or self-insurance.

Reimbursement.

We have a right to recover our no-fault payments from the owner of or the company insuring a *motor vehicle* of a type not included in 2a or 2b below if:

1. we have made payment for *bodily injury* resulting from the *insured's* occupying or being struck as a *pedestrian* by that *motor vehicle*; and
2. the *motor vehicle* we insure for no-fault coverage is:
   a. a sedan, station wagon or jeep type vehicle not used at any time as a public or livery conveyance for passengers; or
   b. a pickup, panel, van, camper or motor home type and not used mainly in an occupation, profession or business.

If There Is Other No-Fault Coverage or If You Own More Than One Vehicle.

1. Vehicles You Own.
   a. If the vehicle involved in the accident is owned by *you* or *your spouse*, this coverage applies only if it is:
      (1) *your car*; or
      (2) a *newly acquired car*. THIS COVERAGE DOES NOT APPLY IF THERE IS OTHER NO-FAULT COVERAGE ON THE *NEWLY ACQUIRED CAR*.
   b. If *your car* is also described in a policy issued to you by another company, the total limits of liability shall not exceed those of the policy with the highest limits of liability. We are liable only for our share of the damages. Our share is the percent that the limit of liability of the policy issued by us bears to the sum of the limits of liability of the policies issued by us and the other company.
2. Policies Issued by Us to You.
   If two or more policies providing no-fault coverage issued by us to *you* apply to the same accident, the total limits of liability under all such policies shall not exceed that of the policy with the highest limit of liability.
3. Coverage Available From Other Sources.
   Subject to items 1 and 2, if other no-fault coverage applies, we will pay only our share. Our share is the percent that the limit of liability of the policy issued by us bears to the total of all coverage applicable to the accident.

When and Where Coverage Applies.

The no-fault coverage you chose applies:

1. in Florida, and
2. outside Florida, but:
   a. within the United States of America, its territories or possessions or Canada, or
   b. in Mexico within 50 miles of the United States border

to *you* or a *relative*, while *occupying your car*, a *newly acquired car*, a *non-owned car*, a *temporary substitute car* or a trailer which would be covered at no additional charge under the "Trailer Coverage" provision of Section I—Liability—Coverage A.

What Is Not Covered Under Coverage P

THERE IS NO COVERAGE:

1. FOR *BODILY INJURY* TO:
   a. ANY *PEDESTRIAN* NOT A LEGAL RESIDENT OF FLORIDA. This does not apply to *you* or any *relative*.
   b. ANY *PERSON* ENTITLED TO NO-FAULT BENEFITS FROM:
      (1) THE OWNER OF A *MOTOR VEHICLE* OTHER THAN *YOU* OR
      (2) THAT OWNER'S INSURER.
      This does not apply to *you* or any *relative*.
2. TO ANY *PERSON*:
   a. WHOSE CONDUCT CONTRIBUTED TO HIS OR HER *BODILY INJURY* UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:
      (1) CAUSING *BODILY INJURY* TO HIMSELF OR HERSELF INTENTIONALLY;
      (2) CONVICTED OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR NARCOTIC DRUGS TO THE EXTENT THAT HIS OR HER DRIVING FACULTIES ARE IMPAIRED; OR
      (3) WHILE COMMITTING A FELONY;
   b. WHOSE *BODILY INJURY* OCCURRED WHILE:
      (1) DRIVING *YOUR CAR* OR A *NEWLY ACQUIRED CAR* WITHOUT YOUR PERMISSION;
      (2) *OCCUPYING* A *MOTOR VEHICLE* LOCATED FOR USE AS A DWELLING OR PREMISES;
   c. WHO OWNS A *MOTOR VEHICLE* SUBJECT TO THE *NO-FAULT ACT*.
      This does not apply to *you* and, if the accident occurs outside Florida, any *relative* while *occupying your car*.
3. FOR INCOME LOSS TO ANY *PERSON* FOR WHOM THE SCHEDULE SHOWS INCOME LOSS BENEFITS ARE ELIMINATED UNDER *YOUR* COVERAGE SYMBOL.

Limits of Liability

1. The most we pay.
   The most we pay for each *insured* for all loss and expense from one accident shall be $10,000 less the amount of any reduction described under "When Payments Are Reduced" that applies to the *insured*.

2. SCHEDULE

Coverage Symbol	Deductible That Applies To: You	Deductible That Applies To: Each of *Your* Dependent *Relatives*	Reduction for Medicare or Military Benefits Applies To: You	Reduction for Medicare or Military Benefits Applies To: *Your* Dependent *Relatives*	Loss of Income Benefits Eliminated For: You	Loss of Income Benefits Eliminated For: *Your* Dependent *Relatives*
P10	None	None	No	No	No	No
P11	None	None	Yes	No	No	No
P12	None	None	Yes	Yes	No	No
P13	None	None	No	No	Yes	No
P14	None	None	No	No	Yes	Yes
P15	None	None	Yes	No	Yes	No
P16	None	None	Yes	Yes	Yes	Yes
P17	None	None	Yes	No	Yes	Yes
P18	None	None	Yes	Yes	Yes	No
P20	$250	None	No	No	No	No
P21	$250	$250	No	No	No	No
P30	$500	None	No	No	No	No
P31	$500	$500	No	No	No	No
P40	$1000	None	No	No	No	No
P41	$1000	$1000	No	No	No	No
P50	$2000	None	No	No	No	No
P51	$2000	$2000	No	No	No	No
P60	$3000	None	No	No	No	No
P61	$3000	$3000	No	No	No	No
P70	$4000	None	No	No	No	No
P71	$4000	$4000	No	No	No	No
P80	$6000	None	No	No	No	No
P81	$6000	$6000	No	No	No	No
P85	$8000	None	No	No	No	No
P86	$8000	$8000	No	No	No	No

Edward B. Trust
President

A-31

6851 AMENDMENT OF UNINSURED MOTOR VEHICLE COVERAGE

This endorsement is a part of *your* policy. Except for the changes it makes, all other terms of the policy remain the same and apply to this endorsement. It is effective at the same time as *your* policy if issued with it. If issued at a later date the name, policy number and effective date must be shown.
Issued by STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY of Bloomington, Illinois, or the STATE FARM FIRE AND CASUALTY COMPANY of Bloomington, Illinois, as shown by the company's name on the policy of which this endorsement is a part.

Named Insured _____

Policy number _____ Countersigned _____, 19__

Effective date _____ By _____
12:01 A.M. Standard Time — Authorized Representative

In consideration of the premium charged, it is agreed that Section III – Uninsured Motor Vehicle – Coverage U is amended as follows:

1. Item 2b of the definition of *Uninsured Motor Vehicle* is changed from: "the limits of liability are less than the limits *you* carry for uninsured motor vehicle coverage under this policy; or" to:

   "the limits of liability are less than the limits of uninsured motor vehicle coverage that apply to the *insured*; or".

2. The following provision is added:

   Settlement.

   The *insured* must submit any settlement agreement for the *bodily injury* limit of liability of the *person* or organization legally liable for the *bodily injury* to us in writing if:

   a. the settlement would not fully satisfy the *insured's* claim for *bodily injury* and
   b. an uninsured motor vehicle claim has been or will be made against us.

   The *insured* may file suit against us and the legally liable *person* if, within 30 days after our receipt of the settlement agreement, we do not:

   a. approve the settlement;
   b. waive our rights of recovery against the *person* or organization legally liable for the *bodily injury*;
   c. authorize the signing of a full release; and
   d. agree to arbitrate the uninsured motor vehicle claim.

   The suit shall decide:

   a. if the *insured* is legally entitled to collect damages and
   b. if so, how much.

   The limit of bodily injury liability of the *person* legally liable shall be exhausted before any award may be entered against us. The award against us shall be binding and conclusive on us and the *insured* up to our coverage limit.

Edward B. Rust
President

6851

Policy notice requirements are met by mailing the notice to the deceased named insured's last known address.

c. Consent of Beneficiary. Consent of the beneficiary after death, dismemberment and loss of sight coverage is not needed to cancel or change the policy.

d. Joint and Individual Interests. When there are two or more named insureds, each acts for all to cancel or change the policy.

2. Suit Against Us.

There is no right of action against us:

a. until all the terms of this policy have been met; and

b. under the liability coverage, until the amount of damages an *insured* is legally liable to pay has been finally determined by:

(1)judgment after actual trial, and appeal if any, or

(2) agreement between the *insured*, the claimant and us.

Bankruptcy or insolvency of the *insured* or his or her estate shall not relieve us of our obligations.

c. under no-fault, medical payments, uninsured motor vehicle, any physical damage and death, dismemberment and loss of sight coverages, until 30 days after we get the *insured's* notice of accident or loss.

3. Our Right to Recover Our Payments.

a. Death, dismemberment and loss of sight coverage payments are not recoverable by us.

b. Under medical payments and uninsured motor vehicle coverages:

(1)we are subrogated to the extent of our payments to the proceeds of any settlement the injured *person* recovers from any party liable for the *bodily injury*.

(2)if the *person* to or for whom we have made payment has not recovered from the party at fault, he or she shall:

(a)keep these rights in trust for us;

(b)execute any legal papers we need; and

(c)when we ask, take action through our representative to recover our payments.

We are to be repaid our payments, costs and fees of collection out of any recovery.

c. Under the liability and physical damage coverages the right of recovery of any party we pay passes to us. Such party shall:

(1)not hurt our rights to recover; and

(2)help us get our money back.

4. Renewal.

Unless within 59 days of the policy effective date we mail or deliver a notice of cancellation to *you*, we agree:

a. to continue it in force until the end of the current policy period; and

b. to renew the policy for the next policy period at the rates then in effect unless we mail to *you* written notice of our intention not to renew. The notice will be mailed to *your* last known address at least 45 days before the end of the current policy period. The mailing of it shall be sufficient proof of notice.

These agreements to continue and renew are void:

a. if *you* fail to pay the premium when due; or

b. if any of the following:

(1)*you*,

(2)*your spouse*,

(3)*any relative*, or

(4)*any other person* who usually drives *your car*

have had his or her driver's license under suspension or revocation during the 180 days just before the effective date of the policy or during the policy period.

5. Cancellation.

How You May Cancel. *You* may cancel *your* policy by written notice mailed or delivered to us. The notice must give us the date to cancel, which must be later than the date *you* mail or deliver it to us.

How and When We May Cancel. We may cancel *your* policy by written notice, mailed to *your* last known address. The notice shall give the date cancellation is effective. It will be mailed to *you* at least :

a. 10 days before the cancellation effective date if the cancellation is because of non-payment of premium; or

b. 45 days before the cancellation effective date if the cancellation is because of any other reason.

The mailing of it shall be sufficient proof of notice.

Return of Unearned Premium. If *you* cancel, premium will be earned on a pro-rata basis. We will add any charges. If we cancel, premium will be earned on a pro-rata basis. Any unearned premium may be refunded at the time we cancel or within a reasonable time thereafter. Delay in the return of unearned premium does not affect the cancellation.

In Witness Whereof, the State Farm Fire and Casualty Company has caused this policy to be signed by its President and Secretary at Bloomington, Illinois, and countersigned on the declarations page by a duly authorized representative of the Company.

SECRETARY

PRESIDENT

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3	Declarations – continued
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6	P – No-Fault – When there are medical and funeral expenses, and work loss.
8	C – Medical Payments – When there are medical and funeral expenses.
9	U – Uninsured Motor Vehicle – When the other car or driver is not insured.
11	D – Comprehensive – When *your car* is damaged except by collision or upset. Any deductible amount is shown by the number beside "D" on the declarations page.
11	P – Collision-80% – When *your car* is damaged by collision or upset.
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FILED
NOV 27 1982
ALEXANDER L. STEVAS,
CLERK

NO. 82-718

In the Supreme Court of the United States

OCTOBER TERM, 1982

JUBA C. BELL,

Plaintiff-Respondent

V.

STATE FARM MUTUAL AUTOMOBILE INSURANCE, A/K/A STATE FARM FIRE AND CASUALTY COMPANY

Defendant-Petitioner

REPLY BRIEF BY PLAINTIFF-RESPONDENT

NEBLETT, BEARD & ARSENAULT
P. O. Box 1190
Alexandria, Louisiana 71301
(318) 487-9874

MR. QUICK PRINT 1108 MacArthur Dr. Alexandria, La. 71301 Ph. 487-6727

PARTIES TO THE PROCEEDING BELOW

The parties to the proceeding in the United States District Court were:

Juba C. Bell,

Plaintiff

State Farm Mutual Automobile Insurance Company, a/k/a State Farm Fire and Casualty Company,

Defendant

Lizene Byoune, Jr.,

Defendant

Nita Bell,

Defendant in Cross-Claim

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Sutton vs. Langley,
330 So. 2d 321, 326-372 (La. App. 2d Cir. 1976), writ denied 332 So. 2d 805 (1976), 332 So. 2d 820 (La. 1976), 333 So. 2d 242 (La. 1976) 5,6

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STATEMENT OF THE ISSUES

I. Whether Louisiana law or Florida law should govern the uninsured motorist policy which is the basis of this litigation.

STATEMENT OF THE CASE

I. Course of Proceedings and Disposition in Court Below

Plaintiff-respondent adopts the Course of Proceedings in defendant-petitioner's original brief.

II. Statement of Facts

Plaintiff-respondent adopts the State of Facts in defendant-petitioner's original brief, adding only that it has been stipulated by all parties that the damages sustained by plaintiff-respondent are in excess of the $10,000 in coverage remaining.

SUMMARY OF ARGUMENT

The District Court and Appeals Court were correct in their findings that Louisiana law should be utilized to determine the choice of law, and that under the "interest analysis" theory which is used in Louisiana, this policy of uninsured motorist coverage must be interpreted under the law of Louisiana, and particularly LSA-R.S. 27:1406 (D)(2)(b), so that the defendant-petitioner is indebted unto plaintiff-respondent for its policy limits plus applicable interest. This is because Louisiana has the most significant contacts with the cause of action.

ARGUMENT

In this, as all diversity cases, the federal courts are bound to follow Louisiana's method of determining choice of law. Klaxon vs. Stentor Electric Manufacturing Co., 313 U.S. 487 (1941); Erie R.R. Co. vs. Tompkins, 304 U.S. 64 (1938).

In Jagers vs. Royal Indemnity Co., 276 So. 2d 309 (1973), the Louisiana Supreme Court abandoned the lex loci contractus espoused in Deane va. McGee, 261 So. 2d 669 (1972) in favor of the more modern "interest analysis" theory. See Lee vs. Hunt, 631 F. 2d 1171 (5th Cir. 1980); Cooper vs. American Express Company, 593 F. 2d 612, 613 (5th Cir. 1979); Brinkley & West, Inc. vs. Foremost Insurance Co., 499 F. 2d 928 (5th Cir. 1974); Brawner vs. Kaufman, 496 F. Supp. 961 (E.D. La. 1980); Highland Insurance Co. vs. Employers Surplus Lines, 487 F. Supp. 169 (E.D. La. 1980); Southern

Insurance Company vs. Consumer Insurance Agency, 442 F. Supp. 30 (E.D. La. 1977); Ardoyno vs. Kyzar, 426 F. Supp. 78 (E.D. La. 1976); Wickham vs. Prudential Insurance Company of America, 366. So. 2d 951, 954 (La. App. 1st Cir. 1978); Hobbs vs. Fireman's Fund American Insurance Companies, 339 So. 2d 28, 37 (La. App. 3rd Cir. 1976); Sutton vs. Langley, 330 So. 2d 321, 326-372 (La. App. 2nd Cir. 1976) writ denied 332 So. 2d 805. See also L.L.R. at p. 760 fn. 61.

The facts of Sutton, infra, are strikingly similar to the case at bar. The court there held that Louisiana law would apply to the interpretation of an uninsured motorist plicy issued in Texas to a Texas citizen, in an accident involving injuries to another Texas citizen. This was because the accident occurred in Louisiana and Louisiana had a greater interest in

the outcome of the suit as to the uninsured motorist coverage. The court reasoned that Texas had a minimal interest especially in light of the fact that in our mobile society, the insurer would have had to contemplate the insured driving out of state and having the uninsured motorist policy subject to different interpretations. In Sutton, writs of certiorari and review were applied for three times, and each time the Louisiana Supreme Court denied writs saying that there was no error in the court of appeal decision. See 132 So. 2d 805 (La. 1976); 332 So. 2d 820 (La. 1976); and 333 So. 2d 242 (La. 1976).

The Trial Court, after careful deliberation over the different considerations involved in the interest analysis, found that Louisiana was the state with the most significant contacts to this action, and accordingly, its law must prevail. This

decision was reached after considering Sprow vs. Hartford Insurance Company, 594 F. 2d 418 (5th Cir. 1979), a case cited by defendant.

Defendant has not alleged that the Trial Court erred in finding Louisiana's interest prevalent. Rather, defendant is insisting that Louisiana law does not provide for the "interest analysis." In so doing, defendant has cited several cases. The first is Deane vs. McGee, infra, which has been effectively overruled by Jagers. Also cited are Sprow, infra, Shockley vs. Sallows, 615 F. 2d 418 (5th Cir. 1979); and Powell vs. Warner, 398 So. 2d 22 (La. App. 4th Cir. 1981). The federal cases overlook the overwhelming mandate of Jagers and its progeny and apply the lex loci contractus rule of Deane vs. McGee. Powell vs. Warner, supra, acknowledges that Jagers is the correct Louisiana approach to conflicts of law but holds

that it was not necessary to choose an applicable law under the facts of that case (Powell at p. 24). Judge Hunter, the trial judge, held that this case did involve a choice of law question, and correctly used the interest analysis.

The petitioner has argued that Louisiana Code of Civil Procedure Article 10 should apply, and, accordingly, Florida law should be invoked. However, as Judge Tate noted in the Fifth Circuit opinion, the article also provides that "the effect of acts passed in one country to have the effect in another country, is regulated by the laws of the country were such acts are to have effect." Judge Tate further noted that "In the case of an insurance policy issued in one state on an automobile that within reasonable intention will be operated in interstate travel, the law of the forum state in which an accident occurs may be deemed to be the state in which the

policy was intended to have effect and to have the most significant relationship in determining the application of a standard automobile liability policy, Deane vs. McGee, supra 260 So. 2d at 674 (concurring opinion), particularly where the vehicle is principally located in such other state. Restatement of Conflict of Laws 2d, Sections 6, 193 (1971)." (See petitioner's appendix at p. A-4 & A-5).

The application of Louisiana substantial law in order to interpret an insurance contract issued in Florida is not violative of the United States Constitution. Allstate Insurance Company vs. Hague, 449 U.S. 302 (1980).

CONCLUSION

For the reasons set forth above, plaintiff-respondent, Juba C. Bell, submits that the decision of the Trial Court and the Court of Appeals should be affirmed.

Respectfully submitted,

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CERTIFICATE

I hereby certify that a copy of the above and foregoing brief has been served upon Mr. DeWitt Methvin, Jr., of Gist, Methvin, Hughes & Munsterman, P. O. Box 1871, Alexandria, Louisiana, 71301, attorney for defendant-petitioner, by depositing same in the U. S. mail, proper postage affixed, this 24th day of November, 1982.

ORIGINAL SIGNED BY
ROBERT B. NEBLETT

ROBERT B. NEBLETT

STATE OF LOUISIANA

PARISH OF RAPIDES

CERTIFICATE

I hereby certify that 40 copies of the above and foregoing brief has been served upon Mr. Francis J. Lorson, Chief Deputy Clerk, Supreme Court of the United States, Office of the Clerk, Washington, D.C. 20543, by depositing same in the U.S. Mail, proper postage affixed, this 24th day of November, 1982.

ORIGINAL SIGNED BY
ROBERT B. NEBLETT

ROBERT B. NEBLETT

Thus done and signed before me, Notary, this 24th day of November, 1982.

NOTARY PUBLIC